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CHAPTER 1 Basic Program Information

SEMINAR LEARNING OUTCOMES

- Explain and apply HUD regulations and guidance to determining eligibility, the intake process, occupancy, and rent calculation in the Housing Choice Voucher (HCV) program.
- Upon completion of HCV Specialist, you should be able to:
  - Identify and explain key program components
  - Describe factors of eligibility, waiting list requirements, and preferences
  - Describe and explain the process of voucher issuance
  - Describe the various aspects of the leasing process in its entirety
  - Analyze and describe the processes associated with annual activities
  - Describe and analyze reasons for terminations and the informal hearing process
  - Explain and discuss the concept of portability, the challenges it presents, and the expectations for housing authorities on both ends of the process
  - Read and interpret Form HUD-50058 and its accompanying instructions
  - Identify and calculate annual income
  - Identify assets and calculate income from assets
  - Calculate adjusted income by correctly deducting HUD-defined allowances and expenses from annual income
  - Recognize the requirements for verification of income, allowances, and expenses

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- Calculate gross rent and maximum rent at initial occupancy
- Calculate the HAP and family share for an HCV family using the payment standard, utility allowance, and gross rent
- Calculate prorated rent for mixed families

ONLINE RESOURCES

- Links to HUD references mentioned in this course can be accessed at:
  - http://NMAReferences.com
    - Click the Housing Choice Voucher (HCV) program link at the top of the page to jump directly to the list of links

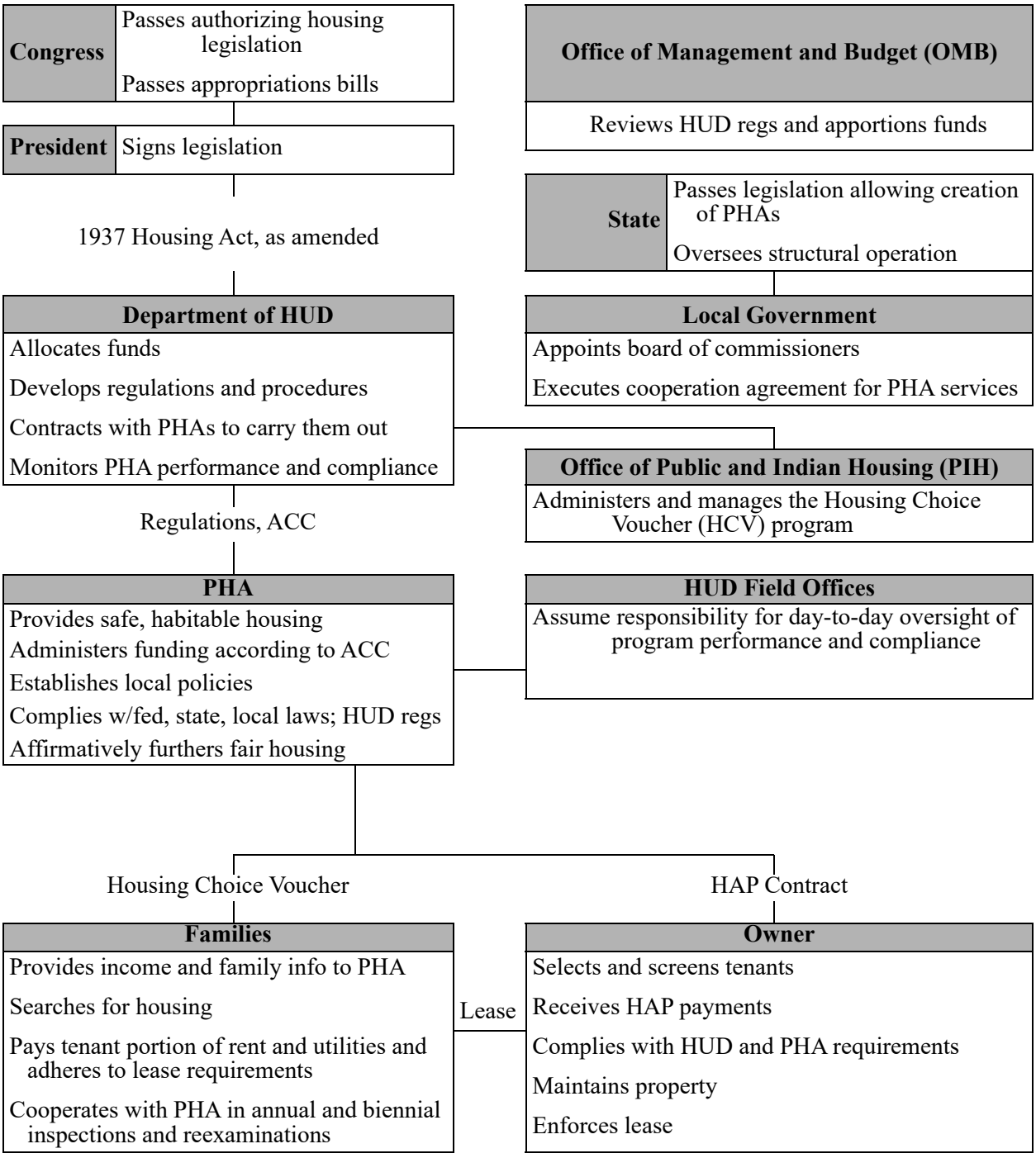
CHAPTER LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Identify the key roles and relationships in the HCV program
  - Read and interpret HUD notices, regulations, and other resources with a focus on critical information
  - Explain PHA responsibilities throughout the program
  - Explain owner responsibilities under the program
  - Apply HUD requirements regarding fair housing and VAWA to the HCV program

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Section 1.1 Program Components

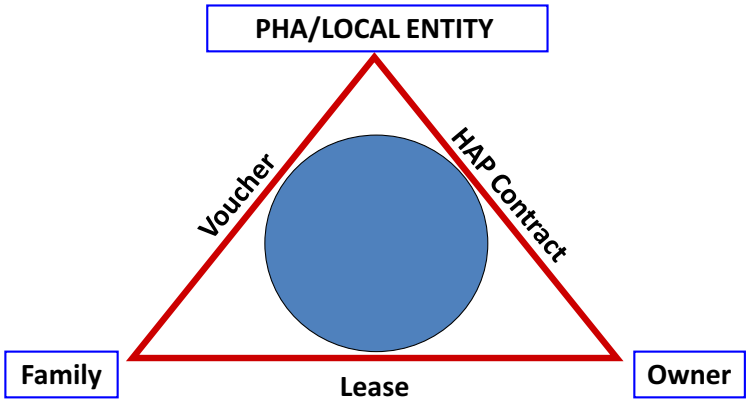
KEY RELATIONSHIPS



PROJECT-BASED VS. TENANT-BASED SUBSIDY

- With project-based assistance, families have to live in a building that has a subsidy attached to it.
- Under the tenant-based program, families can choose their units.

Legal Relationships



HOW HUD COMMUNICATES

HUD homepage:	**www.hud.gov**
HUD regulations:	**www.hud.gov/program_offices/administration/hudclips**
PIH notices:	**www.hud.gov/program_offices/public_indian_housing/publications/notices**
Old HCV Guidebook:	**https://www.nhlp.org/wp-content/uploads/HUD-Housing-Choice-Voucher-Guidebook-7420.10G-Apr.-2001-4.pdf**
New HCV Guidebook:	**https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook**
SEMAP info:	**www.hud.gov/program_offices/public_indian_housing/programs/hcv/semap**
PIH online systems:	**www.hud.gov/program_offices/public_indian_housing/systems**
NMA homepage:	**www.nanmckay.com**

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RULES AND REFERENCES FOR HCV PROGRAM

- 24 Code of Federal Regulations (CFR)
  - Part 1: Nondiscrimination in Federally Assisted Programs
  - Part 5: General HUD Program Requirements
  - Part 8: Nondiscrimination Based on Handicap
  - Part 35: Lead-Based Paint
  - Part 100: Fair Housing Act
  - Part 146: Nondiscrimination on the Basis of Age
  - Part 908: Electronic Transmission
  - Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
  - Part 985: Section 8 Management Assessment Program (SEMAP)
- Public and Indian Housing (PIH) Notices
  - PIH Notices are numbered using the year of publication and a notice number
    - For example, notice PIH 2018-12 is the twelfth PIH notice issued in the year 2018
  - Typically have a shelf life
  - Many state, “This notice remains in effect until amended, superseded, or rescinded.”
- HUD forms and instructions
  - Family Report Form HUD-50058 and Form HUD 50058 Instruction Booklet
  - Housing Assistance Payments (HAP) contract Form HUD-52641
  - Request for Tenancy Approval Form HUD-52517
  - Tenancy Addendum Form HUD-52641
  - Voucher Form HUD-52646

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- Housing Choice Voucher Guidebook
  - If instructions are supported by federal law, CFR, notices, or forms, then the instructions are mandatory.
  - If not supported by federal law, CFR, notices, or forms, then instructions are discretionary.
  - Expired guidance may be used if not replaced by a mandated requirement.
  - There are two versions of the HCV Guidebook. The "old" version was published in 2001. The "new" version was published starting 2019 and is being released chapter-by-chapter. This course book relies on references from both versions of the guidebook.

HOW TO READ A *FEDERAL REGISTER* NOTICE

- Rules issued in the *Federal Register* are organized as follows (see sample pages following):
  - List of regulations affected
  - Subject
  - Rule status (proposed, interim, final)
  - Effective (implementation) date
  - Contact person for comments
  - Preamble
  - Comments
  - Text of new or revised regulations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 888, 982, 985

Regulations affected

[Docket No. FR 4606–I–01]

RIN 2501–AC75

Fair Market Rents: Increased Fair Market Rents and Higher Payment Standards for Certain Areas

Subject

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

Rule status

SUMMARY: This interim rule implements HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMRs are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing. With respect to the Housing Choice Voucher Program, the policy provides that where necessary to ensure the effective operation of this program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR. This aspect of the policy is designed to ensure that families with housing vouchers have access to at least half of all available units in those areas. In addition, the new FMR policy increases FMRs to the 50th percentile in those metropolitan areas where an FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. Where it is determined that an FMR increase is needed in a metropolitan area, the increased FMR applies to all the HUD programs that use FMRs in that metropolitan area.

DATES: *Effective Date:* December 1, 2000. *Comment Due Date:* November 16, 2000.

Implementation date

ADDRESSES: Interested persons are invited to submit written comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone number (202) [illegible] Office of Policy Development and Research, Department of Housing and Urban Development, Room 8224, 451 [illegible] 708–0590. Persons with hearing or [illegible] 800–877–8339. (Other than the "800" TTY number, telephone numbers are not toll free.)

Contact person for comments

SUPPLEMENTARY INFORMATION:

Preamble Starts here and goes on

I. HUD's New FMR Policy

HUD's new FMR policy, being implemented through this interim rule, is designed to achieve two fundamental program objectives: (1) Ensuring that low-income families are successful in finding and leasing decent and affordable housing; and (2) ensuring that low-income families have access to a broad range of housing opportunities throughout a metropolitan area. To achieve the first objective, the policy provides that for the Housing Choice Voucher program, PHAs will be allowed to set their payment standards based on the 50th percentile rent rather than the published 40th percentile FMR in areas where families are having difficulty using housing vouchers to find and lease decent and affordable housing. To achieve the second objective, FMRs will be increased to the 50th percentile in those metropolitan areas where a FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and [illegible] increased FMR applies to all the HUD programs that use FMRs in that area.

Section II of this preamble which immediately follows further discusses how HUD intends to achieve these two objectives through its new FMR policy.

II. Increasing the Proportion of Voucher-Holders That Find Housing and Expanding Housing Opportunities Throughout the Metropolitan Area

Ensuring that voucher-holders are [illegible] and lease decent and affordable housing. In some areas, however, these FMRs are inadequate to enable these families to lease decent and affordable units. HUD's new FMR policy authorizes PHAs to use voucher payment standards based on a 50th percentile rent (rather than the published 40th percentile FMR) where fewer than three-fourths of the families issued vouchers succeed in using them to find and lease housing.

Unlike HUD's former certificate program, in which maximum subsidy levels were governed by the FMR, maximum subsidies under the new Housing Choice Voucher program are governed by a "payment standard." Rather than being required to set subsidy levels at the FMR that applies to the entire FMR area—which may be too low or too high for the particular [illegible] for each unit size. PHAs also may set different payment standard amounts within this range for designated parts of the FMR area. This gives PHAs substantial flexibility to adapt the voucher program to local market conditions.

Most PHAs can run a successful voucher program within this normal 90 to 110 percent range of the current published 40th percentile FMR. In some cases, however, even the maximum 110 percent of the FMR is too low to enable families to find suitable housing with a voucher. The new policy addresses this problem by providing that where a PHA has increased its voucher payment standard to 110 percent of the FMR, but still finds that fewer than 75 percent of all families issued rental vouchers over the course of six months have become participants in the voucher program, the PHA will be eligible to set its payment standard based on a 50th percentile rent (rather than the published 40th percentile FMR).

PHAs that qualify for the higher payment standard amounts will still retain the flexibility to vary their payment standard amounts. The range of payment standards available to them will simply be 90 to 110 percent of a 50th percentile rent (rather than 90 to 110 percent of a published 40th percentile FMR).

This policy which is directed to achieving higher success rates among voucher-holders in finding decent and affordable housing is implemented in § 982.503(e).

Ensuring that low-income families have access to a broad range of housing opportunities throughout the metropolitan area. Another objective of the new policy is to ensure that low-income families are free to move to

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FMR area reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(2) If the FMRs are set at the 50th percentile rent in accordance with paragraph (c)(1) of this section, HUD will set the FMRs at the 50th percentile rent for a total of three years.

(i) At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile rent. HUD will publish FMRs based on the 40th percentile rent for FMR areas that do not qualify for continued use of the 50th percentile rent.

(ii) For purposes of this section, the term ''concentration measure'' means the percentage of tenant-based rental program participants in the FMR area who reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(iii) FMR areas that do not meet the test for continued use of FMRs set at the 50th percentile will be ineligible to use FMRs set at the 50th percentile for a period of three years.

(iv) A PHA whose jurisdiction includes one or more FMR areas that are no longer eligible to use FMRs set at the 50th percentile may be eligible for a higher payment standard under § 982.503(f).

* * * * *

(f) *Unit size adjustments.* * * *

(g) *Manufactured home space rental.* The FMR for a manufactured home space rental (for the voucher program under part 982 of this title) is:

(1) 40 percent of the FMR for a two bedroom unit; or

(2) When approved by HUD on the basis of survey data submitted in public comments, either the 40th or 50th percentile as applicable of the rental distribution of manufactured home spaces for the FMR area. HUD accepts public comments requesting revision of the proposed manufactured home spaces FMRs for areas where space rentals are thought to differ from 40 percent of the FMR for a two-bedroom unit. To be considered for approval, the comments must contain statistically valid survey data that show either the 40th or 50th percentile manufactured home space rent (including the cost of utilities for the manufactured home) for the FMR area. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to update the FMRs.

PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

3. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

4. In § 982.503, paragraphs (b)(2), (c)(2) and the introductory paragraph of (c)(3)(i) are revised, paragraph (e) is redesignated as paragraph (g), and new paragraphs (e) and (f) are added to read as follows:

§ 982.503 Voucher tenancy: Payment standard amount and schedule.

* * * * *

(b) * * *

(2) The PHA must request HUD approval to establish a payment standard amount that is higher or lower than the basic range. HUD has sole discretion to grant or deny approval of a higher or lower payment standard amount. Paragraphs (c) and (e) of this section describe the requirements for approval of a higher payment standard amount (''exception payment standard amount'').

(c) *HUD approval of exception payment standard amount.* * * *

(2) *Above 110 percent of FMR to 120 percent of published FMR.* (i) The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to [illegible] this section (and that such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section).

(A) *Median rent method.* In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the median gross rent of the entire FMR area. In this method, HUD uses median gross rent data from the most recent decennial United States census, and the exception area may be any geographic entity within the FMR area (or any combination of such entities) for which median gross rent data is provided in decennial census products.

(B) *40th or 50th percentile rent method.* In this method, HUD determines that the area exception payment standard amount equals either the 40th or 50th percentile of rents for standard quality rental housing in the exception area. HUD determines whether the 40th or 50th percentile rent applies in accordance with the methodology described in § 888.113 of this title for determining FMRs. A PHA must present statistically representative rental housing survey data to justify H[illegible] ap[illegible] ar[illegible] re[illegible] for a family that includes a person with disabilities.

FM[illegible] A[illegible] In[illegible] ex[illegible] th[illegible] ju[illegible] Secretary determines that:

* * * * *

(e) *HUD approval of success rate payment standard amounts.* In order to increase the number of voucher holders who become participants, HUD may approve requests from PHAs whose FMRs are computed at the 40th percentile rent to establish higher, success rate payment standard amounts. A success rate payment standard amount is defined as any amount between 90 percent and 110 percent of the 50th percentile rent, calculated in accordance with the methodology described in § 888.113 of this title.

(1) A PHA may obtain HUD Field Office approval of success rate payment standard amounts provided the PHA demonstrates to HUD that it meets the following criteria:

(i) Fewer than 75 percent of the families to whom the PHA issued rental vouchers during the most recent 6 month period for which there is success rate data available have become participants in the voucher program;

(ii) The PHA has established payment standard amounts for all unit sizes in the entire PHA jurisdiction within the FMR area at 110 percent of the published FMR for at least the 6 month period referenced in paragraph (e)(1)(i) of this section and up to the time the request is made to HUD; and

(iii) The PHA has a policy of granting automatic extensions of voucher terms to at least 90 days to provide a family who has made sustained efforts to locate suitable housing with additional search time.

(2) In determining whether to approve the PHA request to establish success rate payment standard amounts, HUD will consider whether the PHA has a

Compare with previous regulation

That portion of the section either above or below remains unchanged

That portion of the section not listed remains unchanged

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Section 1.2 PHA Administrative Plan

CFR 982.54(a)

- HUD regulations require each PHA to adopt a written administrative plan that establishes local policies for administering the Housing Choice Voucher (HCV) program.

CFR 982.54(a)
CFR 982.54(b)

- A PHA's administrative plan, and any revisions to it, must be formally adopted by the PHA's board of commissioners or other authorized PHA officials and must be available for public review.

CFR 982.54(c)

- A PHA is required to administer the HCV program in accordance with HUD regulations and the PHA's administrative plan.

PURPOSE OF WRITTEN POLICIES

- Written policies provide daily guidance to PHA staff in the performance of routine activities and ensure that all staff do things the same way. Since a PHA is subject to legal challenges, staff consistency in administering and explaining HUD rules and PHA policies ensures that:
  - Fair and equitable treatment will be provided to families that the PHA serves
  - Litigation will be minimized
- Written policies have several other advantages:
  - They are transparent to the public
  - They help to prevent misunderstandings among PHA staff, owners, and program participants
  - They are more defensible than unwritten policies when challenges arise
  - They provide a basis for justification in audits conducted under the Section 8 Management Assessment Program (SEMAP), Rental Integrity Monitoring (RIM) reviews, or independent public audits

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Section 1.3 Overview of HOTMA

- 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. 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 (Note, HUD released a revised version of the notice dated April 16, 2026).
- On December 12, 2024, HUD published Notice PIH 2024-38, which identifies certain provisions of HOTMA 102/104 that PHAs must have complied with no later than July 1, 2025. The compliance deadline did not apply to other HOTMA 102/104 provisions not listed in the notice.
- On May 14, 2026, HUD issued Notice PIH 2026-15, which provided a compliance date of January 1, 2027, for all remaining provisions of HOTMA 102/104. The compliance date does not apply to Moving to Work (MTW) PHAs nor PHAs using the HUD Family Reporting Software (FRS). For PHAs subject to this compliance deadline, all HUD-50058 transactions with an effective date on or after January 1, 2027, must reflect HOTMA requirements.

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- The National Standards for the Physical Inspection of Real Estate (NSPIRE) will be the inspection protocol for the HCV and PBV programs and will replace HUD's Housing Quality Standards (HQS). The deadline for the sunset of HQS was moved from 10/1/24 to 10/1/25. While HQS as an inspection protocol will eventually sunset, the regulations on inspection administration in the HCV program will continue to use the term HQS not NSPIRE. HUD defines housing quality standards (HQS) as the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA. In other words, "HQS" is a general umbrella term meaning the applicable inspection standards for the HCV program plus any HUD-approved variations. This manual uses the terms "HQS" and "NSPIRE" as appropriate.

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Section 1.4 Non-discrimination/Fair Housing Compliance

PROTECTED CLASSES

- Numerous federal statutes define the protections afforded to applicants and participants and what constitutes discrimination.

CFR 100.5

- Federal laws prohibit discriminating against any family based on:
  - Race
  - Color
  - Religion
  - Sex

Executive Order 13988

    - "Sex" includes discrimination on the basis of sexual orientation and gender identity
  - Age
  - Disability
  - Familial status
    - *Familial status* protects families with children
  - National origin
- In March 2025, Executive Order 14224 revoked Executive Order 13166 which had directed agencies to enhance access to federal programs for persons with limited English proficiency (LEP) and required tailored guidance for recipients of federal funding under Title VI of the Civil Rights Act of 1964. Executive Order 14224 also declared English as the official language of the United States.

- In response, on July 14, 2025, the Office of the Attorney General (OAG) issued a memo on the implementation of EO 14224, which rescinded all prior guidance to federal agencies regarding Title VI of the Civil Rights Act's prohibition against national origin discrimination affecting LEP persons. The memo:
  - Presents a legal analysis concluding that language is not an immutable characteristic entitled to Title VI protection and decoupling LEP persons from national origin discrimination.
  - States that, where allowed by law, agencies should determine which of their programs and policies might serve the public at large better if operated exclusively in English.
  - States that agencies are not required to amend, remove, or otherwise stop production of all multilingual documents, products, or other services prepared or offered. Further, many states and localities have laws regarding language services to be provided to non-English-speaking persons which may apply to the PHA.
- For LEP persons, language can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information.
- PHAs should make decisions as they deem necessary to fulfill their mission and efficiently provide services.

Section 1.5 Disability

DEFINITIONS OF THE TERM DISABILITY

- This section is an overview of the two definitions of *disability*. The first is the HUD definition used for purposes of eligibility as a disabled family, and the HUD allowances and deductions. The second is the American Disabilities Act (ADA) definition used for purposes of reasonable accommodation.

HUD DEFINITION OF A DISABLED PERSON

CFR 5.403
CFR 5.611

- The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the elderly/disabled household deduction, the dependent allowance, the allowance for medical expenses, and/or the allowance for disability assistance expenses.
  - Persons are considered disabled if:
    1. They have a disability as defined in 42 U.S.C. 423
    2. They are 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 their ability to live independently
       - is of such a nature that the ability to live independently could be improved by more suitable housing conditions
    3. They are functionally disabled as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6001(8)].

- Persons who have acquired immunodeficiency syndrome (AIDS) or any conditions arising from the AIDS virus are not excluded from this definition.
- For purposes of qualifying for low-income housing, the definition does not include a disability based solely on any drug or alcohol dependence.

Legislative Reference

1. 42 U.S.C. Section 423(d)(1)(A) defines disability as:

   "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."

2. The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)) defines developmental disability in functional terms as:

   A severe, chronic disability of a person 5 years of age or older which:

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

   (B) is manifested before the person attains age twenty-two

   (C) is likely to continue indefinitely

   (D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency

   (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

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HCV GB 5-50

VERIFICATION OF DISABILITY

- Verified by a knowledgeable professional source that the person meets this criteria, using the exact wording in the HUD definitions.

42 U.S.C. 1437a(b)(3)(E)

- Receipt of Social Security Disability or Supplemental Security Income is verification of disability. If such benefits are not received, the following can provide a basis for verification:

Verification Guide

  - Original SSA notice confirming SSI payments
  - Verification from a qualified professional having knowledge of the person's disability, who can verify the tenant's status
  - The PHA may also accept doctor statements meeting the disability definition requirements in USC Title 42, Section 423.

- PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about an individual's ability to live independently, or about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document. Under no circumstances should a PHA request a participant's medical records.

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Housing Authority

DISABILITY VERIFICATION FORM

Public Housing Authorities are required to verify the disability of applicants claiming to be disabled to determine the applicant's eligibility for the housing and to compute rent. The resident has signed a release form below giving you permission to supply us with this information. Please fill out the form below and return it at your earliest convenience.

Sincerely yours, _____

The Department of Housing and Urban Development defines a disabled person in 3 ways:

(1) A disabled person is one with an inability to engage in any substantial gainful activity because of any physical or mental impairment that is expected to result in death or has lasted or can be expected to last continuously for at least 12 months; or for a blind person at least 55 years old, inability because of blindness to engage in any substantial gainful activities comparable to those in which the person was previously engaged with some regularity and over a substantial period.

(2) A developmentally disabled person is one with a severe chronic disability that:

- (a) is attributable to a mental and/or physical impairment;
- (b) as manifested before age 22;
- (c) is likely to continue indefinitely;
- (d) results in substantial functional limitations in three or more of the following areas: capacity for independent living, self-care, receptive and expressive language; learning, mobility, self-direction, and economic self-sufficiency AND
- (e) requires special interdisciplinary or generic care treatment, or other services which are of extended or lifelong duration and are individually planned or coordinated.

(3) A disabled person is also one who has a physical, emotional or mental impairment that:

- (a) is expected to be of long-continued or indefinite duration;
- (b) substantially impedes the person's ability to live independently;
- (c) is such that the person's ability to live independently could be improved by more suitable housing conditions.

I, _____, hereby certify that _____ (person signing the release below should be considered disabled in accordance with definition number _____ above.)

Name and Title_____Date_____
Signature_____Phone_____

TENANT/APPLICANT RELEASE

I, _____, hereby authorize the release of the requested information.

Signature_____Date_____

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POP QUIZ

- Becky (age 36) states she is disabled and has submitted this document. Do we need to verify her disability?

Social Security Administration

Retirement, Survivors, and Disability Insurance

Notice of Award

Office of Central

Operations

1500 Main Street

Baltimore, Maryland 19191

Date: October 10, 2026

Claim Number: 111-11-1111 HA

Becky Walker

13619 North Blvd

Anytown, USA

You are entitled to a monthly disability benefit beginning April 2025.

What We Will Pay and When

You will receive $941.00 for September 2026 around October 22, 2026.

You will receive $941.00 for September 2026. After that you will receive $943.00 on or about the fourth Wednesday of each month.

This and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.

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DEFINITION OF A DISABLED PERSON FOR PURPOSES OF REASONABLE ACCOMMODATION

ADA/504/Fair Housing Act
CFR 100.201
CFR 8.3

- The definition of a person with a disability for purposes of granting a reasonable accommodation request under either 504, FHAA or the ADA is much broader than the HUD definition of *disability*. The Fair Housing Act defines a person with a disability to include:
  - Individuals with a physical, mental or emotional impairment that substantially limits one or more of the person's major life activities;
  - Individuals with a record of such impairment; or
  - Individuals who are regarded as having such an impairment.
- The physical or mental impairment can include practically any condition, disease, illness, disfigurement or disorder, as long as the impairment substantially limits one or more major life activities. Examples include:
  - Alcoholism
  - Cerebral palsy
  - Cancer
  - Mental illness
  - Emotional disorder
  - Former drug addiction
  - HIV infection

- Major life activities include, but are not limited to:
  - Caring for oneself
  - Performing tasks
  - Walking
  - Seeing
  - Hearing
  - Breathing
  - Learning
  - Working
- These federal civil rights laws were intended to cover a wide range of disabilities and do not require the severity of the HUD definition.
  - This broader definition is used for purposes of reasonable accommodation. This is because the laws were intended to ensure that a person with some limitation due to an impairment was not excluded from a program simply by virtue of that impairment so long as a reasonable shift in a program's rules or practices could allow them full access to the program.

LIMITATIONS SPECIFICALLY EXCLUDED FROM DISABILITY PROTECTION

- The following categories are excluded from the Fair Housing Act protections:
  - Current drug users
  - People whose alcohol use interferes with the rights of others
  - A person with any disability whose tenancy poses a direct threat to the health or safety of others unless the threat can be controlled with a reasonable accommodation
  - Juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Fair Housing Act

NONDISABLED PEOPLE WHO ARE CONSIDERED DISABLED

- A person does not have to have a mental or physical impairment to be discriminated against under fair housing laws.
  - A person is "handicapped" if others regard or treat them as if they are.
- If a staff member treats an applicant or tenant as though they had an impairment that substantially limits a major life activity, and because of that perception discriminates against that person, that person may file a discrimination claim under 504, whether or not they are actually disabled, and even though they are not qualified to receive an accommodation.

PHA OBLIGATION TO NOTIFY

- The PHA has an obligation to inform applicants and participants of the right for any person with disabilities to request a reasonable accommodation. The PHA should review forms, letters, posters, and signs for inclusion of this information.
- PHAs should consider adding the following to relevant application and occupancy documents:
  - "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 and services, please contact (name and phone number)."

- PHAs should create or adopt standardized forms that clearly and simply ask for all the information and verifications the PHA will use in considering the request. It is best to ask the same questions of everyone.
  - However, PHAs must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the PHA's preferred forms or procedures.

APPLICANT OR TENANT MUST *REQUEST* A SPECIFIC ACCOMMODATION

- An applicant's or participant's request triggers the need for an accommodation.
- The PHA should never offer an accommodation until one has been specifically requested. Treating people differently because of a perceived disability is discrimination.

THE REQUEST FOR AN ACCOMMODATION BEGINS A *PROCESS*

- It's important to be aware that sometimes the need for an accommodation first presents itself in the form of a complaint or through issues of noncompliance.
  - For example, if an applicant is denied admission, the need for some type of accommodation may be brought up. This is the signal for the PHA to begin the reasonable accommodation *process.*
- The reasonable accommodation process should be documented beginning with the initial request for an accommodation.
- The PHA's legal protection from a discrimination complaint or lawsuit lies in having *written* proof that consideration was given to the request.

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WHAT THE PHA CANNOT ASK

- The general rule is that the PHA **cannot** ask:
  - If a person has a disability (unless it is relevant to whether the applicant qualifies for the program or type of designated development)
  - The nature or extent of the disability
  - Any question that would require the disabled person to waive or disclose a medical condition or history
  - Whether any family member has a disability
- It is always the right of a person with disabilities to not say anything about their disabilities.
  - However, the PHA does not have to provide any accommodation or special preference for that person.
- A PHA cannot require that the tenant be able to live independently.
  - The PHA can only require that the family meet all its defined family obligations.

VERIFICATION

- A PHA can ask only for information that is relevant.
  - If the person requests an accommodation due to their particular disability, you may ask the person to verify they have a disability and the need for the requested accommodation.
    - The PHA may require third-party verification to verify that the requested accommodation would remove a barrier to program participation. The relationship or connection between the person's disability and the barrier to housing is often referred to as the nexus. A verification form should only ask for as much information about the applicant's or tenant's disability as is necessary for the PHA to consider whether or not they qualify for the reasonable accommodation they have requested.

DOJ/HUD Joint Statement
May 17, 2004
Reasonable Accommodations under the Fair Housing Act

- If a person's disability is obvious or already known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information.

CONSIDERATION OF REASONABLENESS OF REQUEST

- A PHA can deny a request for reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation.
  - In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable, i.e., if it would impose an undue financial and administrative burden on the PHA or it would fundamentally alter the nature of the PHA's operations.

Notice PIH 2010-26

- 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 the PHA's program with respect to the number of employees, type of facilities, and size of budget
  - The type of operation, including the composition and structure of workforce
  - The nature and cost of the requested accommodation
  - The availability of alternative accommodations that would effectively meet the requester's disability-related needs
- When a PHA refuses a requested accommodation because it is not reasonable, the PHA should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the PHA's operations and without imposing an undue financial and administrative burden.
  - If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the PHA must grant it.

Requirement to Keep Information Confidential

- Under federal privacy laws, a PHA is required to keep confidential any personal information about an individual obtained in a confidential manner or from a confidential source.
- An applicant or participant may sign a consent form to allow the PHA to disclose information in their file, but staff should not talk to anyone about a particular applicant's or tenant's medical status without authorization from the applicant or tenant, preferably in writing.
  - For example, the individual may have a social worker or family member who will help with the annual reexamination and inspection.

Notice PIH 2010-26

- If a PHA receives a verification document that provides a person's diagnosis or details of treatment for a disability or medical condition, the PHA should dispose of it. The PHA should note in the file that a disability (in place of the specific disability information) and any other information requested has been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

Reasonable Accommodation Functions

CFR 100.203

- Property owner must permit a family to modify an inaccessible unit if not unreasonable
  - Should offer alternatives if request is unreasonable

EXCEPTION PAYMENT STANDARDS AS A REASONABLE ACCOMMODATION

- The regulation at 24 CFR 982.503(d)(5) specifies that if a family includes a person with disabilities, the PHA may approve a higher payment standard for the family if necessary as a reasonable accommodation.
- This can be necessary to ensure that a family can rent a unit that meets the needs of a family member with disabilities and may also be necessary to enable a participant family to remain in an assisted unit.

Notice PIH 2025-12

- When a family requires a unit with specific features or for other disability-related reasons to accommodate a family member with a disability, and the family is unable to find a unit with those features or that otherwise meets the disability-related need within the established payment standard, the family may request an exception to the established payment standard as a reasonable accommodation.

- Examples of circumstances that may qualify for an exception payment standard include, but are not limited to:
  - Accessibility features such as accessible bathrooms or larger doorways;
  - Access to ground-level units or elevators for wheelchair/mobility devices;
  - Units with features to benefit individuals with hearing or visual impairments;
  - Proximity to medical providers or other services/supports;
  - Accessible parking on the premises;
  - Accessible to essential services or daily life activities;
  - Proximity to public transit or to other accessible transportation; and
  - Location with sidewalks for individuals who use wheelchairs/mobility devices.
- The PHA must evaluate each request on a case-by-case basis.
- If required as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR/SAFMR for the unit size (or in the case of VASH, up to 140 percent of the FMR/SAFMR). The PHA may request HUD approval in accordance with Notice PIH 2025-12 for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR/SAFMR.

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- Unless the disability or the disability-related need is obvious, readily apparent, or already known, the family must document the disability-related need for the exception payment standard. In order to approve an exception, or request an exception from HUD, the PHA must determine that:
  - There is a disability-related need for the particular unit (which may include location);
  - The gross rent for the unit is above the PHA's payment standard;
  - The family share would otherwise exceed 40 percent of adjusted monthly income; and
  - The rent for the unit is reasonable.
- The exception payment standard for the specific dollar amount approved by the PHA or HUD remains effective as long as the family has a disability-related need for the features of the approved unit, and the rent remains reasonable. Requests for a higher exception payment standard for the same unit due to rent increases or changes in the family's income should only be submitted to HUD when the rent is no longer affordable to the family, typically (though not exclusively) when the family share exceeds 40 percent of adjusted monthly income, and if the higher payment standard is above 120 percent of the FMR/SAFMR in effect at the time the PHA determines that the higher payment standard is necessary.
- Guidelines for processing requests for exception payment standards as a reasonable accommodation can be found in Notice PIH 2025-12.

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LIVE-IN AIDE

CFR 5.403

- Definition—A person approved by the PHA who resides in the unit to care for a family member who is disabled or at least 50 years of age, and who:
  - Is determined to be essential to the care and well-being of the person
  - Is not obligated for support of the person
  - Would not be living in the unit except to provide necessary supportive services

CFR 982.316

- The PHA must approve a live-in aide, if needed, as a reasonable accommodation for a person with a disability.

Industry Practice

- Relatives are not automatically excluded. The relative must meet the requirements stated above to qualify.

Notice PIH 2014-25

- Originally HUD anticipated that live-in aides would be single persons and that only one additional bedroom would be required.
- The PHA may not refuse to approve a live-in aide simply because the aide has family members that would be residing in the unit, provided that the presence of the live-in aide's family does not:
  - Overcrowd the unit or property, or
  - Create an undue financial burden (it might be an undue burden to provide a 3BR subsidy to a single eligible individual).
- In making decisions pertaining to the family members of live-in aides, a PHA cannot refuse to approve a particular live-in aide simply because they have children, since this would be familial status discrimination.

CFR 982.316

- At any time, the PHA policy may allow for refusal to approve a particular person as a live-in aide, or withdrawal of such approval, if the person:
  - Commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
  - Commits drug-related criminal activity or violent criminal activity
  - Currently owes rent or other amounts to the PHA or to another PHA in connection with HCV or public housing assistance under the U.S. Housing Act of 1937

Section 1.6 Violence Against Women Act (VAWA)

- VAWA cites congressional findings that assert that women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.
  - These findings also note there is a strong link between domestic violence and homelessness.
- The general purpose of the law is to reduce domestic violence, dating violence, sexual assault, stalking, and human trafficking, and to prevent homelessness.
  - Although the VAWA 2022 statute does not specifically do so, HUD has recently begun 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, we have opted to include human trafficking in this text in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.
- The law protects victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who reside in public, assisted, and other types of housing and ensures that such victims have meaningful access to the criminal justice system without jeopardizing such housing.
- To do so, VAWA amends the 1937 Housing Act. Title VI of VAWA affects the public housing and Housing Choice Voucher (HCV) programs by placing safeguards in the admissions and termination process, including provisions and procedures for certification, confidentiality, and notification.
  - Section 3 of VAWA defines domestic violence, dating violence, and sexual assault. Title VI defines stalking, as related to housing issues.

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DENIAL OF ASSISTANCE

CFR 5.2005(b)

- VAWA prohibits denial of assistance to an otherwise qualified applicant on the basis of 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.

CFR 5.2011

- VAWA does not take precedence over any provision of federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- If the PHA's voucher program screens applicants on the basis of their family behavior or suitability for tenancy, it may need to put some safeguards in place to ensure that you comply with this section of VAWA. Victims of domestic violence are often saddled with a bad credit rating and poor landlord references, possibly even a history of evictions or a crime record.
- Notice PIH 2017-08 states that the PHA is prohibited from denying assistance or admission, terminating participation, or evicting a tenant based on adverse factors, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.
    - Adverse factors refer to any factor that can be used as a basis for denying admission, terminating assistance, or evicting a tenant.

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TERMINATION OF TENANCY OR ASSISTANCE

- VAWA limits the owner's and PHA's right to terminate tenancy or program assistance under certain circumstances.

CFR 5.2005

- PHAs and owners may not consider actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as a cause for terminating the tenancy or program assistance of a victim of such violence.
  - This means that PHAs and owners may not construe such violence or stalking as:
    1. A serious or repeated violation of the lease by the victim or threatened victim. This includes property damage and noise complaints due to abuse.
    2. Other good cause for terminating the tenancy or occupancy rights of the victim or threatened victim
    3. Criminal activity justifying the termination of the tenancy, occupancy rights, or program assistance of the victim.

- A PHA or owner retains the authority to terminate the tenancy or program assistance of a victim under either of the following conditions:
  - The termination is for a lease violation premised on something other than an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking against the victim, and the PHA or owner is holding the victim to a standard no more "demanding" than the standard to which other tenants are held.
  - The PHA or owner can demonstrate an "actual and imminent threat to other tenants or those employed at or providing service to the property" if the tenancy, or program assistance of the victim is not terminated.
  - Notice PIH 2017-08 provides several considerations for reducing "actual and imminent" threats.

CFR 5.2005(d)(4)

- Any eviction or termination of assistance should only occur when there are no other actions that could be taken to reduce or eliminate the actual and imminent threat, such as transferring the victim to another unit.

FR Notice 1/4/23

- 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.

DENIAL OF MOVES

CFR 982.353(b)

- The change that VAWA makes in this area applies only to the voucher program. Under the current regulations, a PHA is prohibited from providing portable assistance to a family that has moved out of its assisted unit in violation of the lease. VAWA creates an exception to this prohibition for families that are otherwise in compliance with their obligations under the program but have moved out of their assisted dwelling unit:
  - In order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking 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
  - Or, if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move

CFR 982.354 (c)(2)(iii)

- Likewise, policies that prohibit moves during the initial lease term or during any one-year period do not apply when the family or member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault on the premises during the preceding 90 calendar days.

NOTIFICATION AND CERTIFICATION

CFR 5.2005(a)

- PHAs and owners are required to provide the Notice of Occupancy Rights (HUD-5380) and certification form (HUD-5382) at the time the individual is provided assistance or admission, along with any notice of denial or eviction.
  - The Notice of Occupancy Rights is the official HUD informing notice.
- PHAs are not required to demand official documentation or physical proof of domestic violence, dating violence, sexual assault, stalking, or human trafficking before granting an alleged victim any of the special protections afforded by VAWA.
- The PHA may accept the individual's statement alone.

Notice PIH 2017-08

- HUD recommends documenting in a confidential manner when a verbal statement or other evidence is accepted.

Notice PIH 2017-08

- If the PHA chooses to request an individual to document their status as a victim, the PHA must make such a request in writing. Simply providing the victim with the form HUD-5382 does not constitute a written request for documentation.

- If the PHA requests documentation, the applicant or participant may submit one of the following:
  - A signed HUD-5382
  - A document signed by a "professional" and the applicant or participant, which specifies that the professional believes that the occurrence is grounds for VAWA protections
    - A "professional" can be an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional
  - Federal, state, tribal, territorial, or police or court records
  - A statement or other evidence provided by the individual, at the PHA's discretion
- Form HUD-5382 may also be filled out and submitted on behalf of a victim.
  - Notice PIH 2017-08 encourages PHAs and owners to advise applicants, tenants, and participants that forms submitted on their behalf will take the place of the victim's own statement.
- Individuals requesting protection cannot be required to provide additional third-party documentation, although the PHA may require third-party documentation if more than one applicant or tenant provides documentation (e.g., two household members each claiming to be the victim and the other the perpetrator) or the submitted documentation contains information that conflicts with existing information already available to the PHA.
  - In such cases, the applicant has 30 calendar days from the date of the PHA's request to submit third-party documentation.
  - Notice PIH 2017-08 provides several clarifications and considerations with respect to requesting third-party documentation in cases where information conflicts.

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- Form HUD-5382 states that victims are not expected and cannot be asked or required to claim, document, or prove victim status or VAWA violence or abuse other than as stated in the Notice of Occupancy Rights, Form HUD-5380.

Form HUD-5382

- Form HUD-5382 is the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking.
- The current version makes clear that:
  - Victims of sexual assault are protected by VAWA as well as victims of domestic violence, dating violence, and stalking.
  - The form applies not only to family members but also to affiliated persons of tenant, participant, and applicant families.
    - Form HUD-5380 defines an *affiliated person* as the tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian of a victim of domestic violence, dating violence, sexual assault, or stalking.
    - Notice PIH 2017-08 clarifies that while guests, unassisted members, and live-in aides are ineligible for VAWA protections, however, as a reasonable accommodation, a tenant or participant can request VAWA protections if a live-in aide is a victim or other reasonable accommodations on a case-by-case basis.
- The form, transmitted as Form HUD-5382, includes a space for "your name (if different from the victim's)."
- The form specifically states that whenever a victim asks for or about VAWA protections, any information provided will be kept confidential.

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- HUD's form leaves space for the family to provide the name of the perpetrator, if known and can be safely disclosed.
- The form contains space for the victim to specify the safest contact method as to not place the victim at risk (the abuser may monitor the mail, email, or phone).
- The PHA must give the individual at least 14 business days to respond to their written request for documentation
- The PHA may extend the 14-day deadline at its discretion.
- The VAWA certification requirements do not supersede any provision of any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

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EMERGENCY TRANSFER PLAN

- VAWA regulations require PHAs to establish an emergency transfer plan (ETP) as part of their administrative plan or ACOP.
  - The ETP must provide for immediate transfer to a safe unit if one is available, and the client would not have to apply for a different program.
  - The ETP must describe policies for emergency transfers of HCV participants, and the priority of VAWA transfers in relation to other transfers.
  - The ETP must also include policies for transfers when a safe unit is not immediately available, including whether the client would or would not have to apply for a different program.
  - Since HCV and PBV owners are not required to establish ETPs, Notice PIH 2017-08 reiterates that it is the PHA's responsibility to do so.
  - Notice PIH 2017-08 also clarifies that as part of the PHA's emergency transfer plan (ETP), the PHA may choose to provide a voucher to facilitate an emergency transfer without having terminated assistance to the perpetrator.
  - The notice provides a detailed description of requirements for ETPs and other considerations when establishing ETPs, including examples.
- The ETP must be made available upon request or made publicly available.

- The ETP must state that victims of sexual assault qualify for emergency transfers if:
  - The tenant (or their household member) is a victim of VAWA violence/abuse;
  - The tenant expressly requests the emergency transfer; AND
  - EITHER
    - The tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they or (their household member) stays in the same dwelling unit; OR
    - If the tenant (or their household member) is a victim of sexual assault, either the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or their household member) were to stay in the unit, or the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

CONFIDENTIALITY

- If a tenant inquires or requests any VAWA protections, or represents that they or a household member is a victim, all information provided to the PHA or HCV owner or manager:
  - Must be retained in confidence
  - Must not be entered into any shared database or provided to any related entity, unless:
    - The individual consents or requests in writing
    - It is required for use in eviction or termination proceedings
    - It is otherwise required by law

- For safety and legal reasons surrounding liability to the PHA and harm to a victim, a PHA may want to consider having all VAWA situations handled by a single staff member to limit access and knowledge with regards to the certification process and details regarding the abusive situation.
    - Notice PIH 2017-08 offers guidance and best practices for proper communication with victims, specifically for avoiding inadvertent disclosure of information and ensuring the safety of the victim.

Learning Activity 1-1: Basic Program Information Knowledge Check

I. Match the following terms with their definitions:

1. _____ Annual contributions contract (ACC)
2. _____ Administrative plan
3. _____ HUD definition of disability
4. _____ ADA/504/FHA definition of disability
5. _____ Tenant-based assistance
6. _____ Project-based assistance

a. Type of assistance where families live in a building with subsidy attached to it
b. The written contract between HUD and the PHA under which HUD agrees to provide funding for the program, and the PHA agrees to comply with HUD requirements
c. Narrower definition of a person with disabilities used for purposes of receiving preferences and deductions
d. Type of assistance where families may choose their units
e. A HUD-required written plan that establishes local PHA policies for administering the HCV program
f. Broader definition of disability for purposes of granting a reasonable accommodation request

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II. Match the following program components with their function:

1. _____ Congress
2. _____ Department of Housing and Urban Development (HUD)
3. _____ Office of Public and Indian Housing (PIH)
4. _____ State government
5. _____ PHA
6. _____ Owner
7. _____ Participants

a. Provide income and family information to PHA, pay tenant portion of rent and utilities to owner, adhere to lease requirements and family obligations
b. Passes authorizing legislation and appropriations bills
c. Administers funding according to the ACC, establishes local policies, subsidizes decent, affordable housing
d. Selects and screens tenants, receives HAP payments, enforces lease
e. Passes legislation allowing creation of PHAs
f. Department of HUD that administers and manages the HCV program
g. Allocates funds, develops regulations, contracts with PHAs, monitors PHA performance

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III. Fair Housing:

1. One of the criteria to approve someone as a live-in aide is that they would not otherwise be living in the unit except to provide necessary supportive services.:
   a. True
   b. False
2. A live-in aide may be related to a family member living in the unit of the following are ineligible for assistance?
   a. True
   b. False
3. Before a PHA may grant protection to anyone under VAWA, the victim must provide third-party verification of their status, such as a police report.
   a. True
   b. False
4. If a PHA grants an individual's request for a reasonable accommodation, the individual is automatically eligible to receive the elderly/disabled deduction when their rent is calculated.
   a. True
   b. False
5. The definition of disability for reasonable accommodation purposes is the same as the definition of disability used by the Social Security Administration.
   a. True
   b. False

Section 1.7 NMA Continued Learning

CONTENTS OF THE ADMINISTRATIVE PLAN

CFR 982.54(d)

- A PHA's administrative plan must establish policies on the following subjects:
  - Selection and admission of applicants from the PHA's waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the waiting list
  - Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term
  - Any special rules for use of available funds when HUD provides funding for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families
    - Occupancy policies, including:
    - Definition of what groups 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 24 CFR 982.553
  - Outreach to owners outside areas of low-income or minority concentration
  - Assistance to families who claim that illegal discrimination prevents them from leasing a suitable unit
  - Family information to be provided to prospective owners
  - Disapproval of owners
  - Subsidy standards

- Absence of a family from its dwelling unit
- Method of determining who remains in the HCV program if a family breaks up
- Informal review procedures for applicants
- Informal hearing procedures for participants
- Process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term
- Method of determining that rent to owner is reasonable initially and during the term of a housing assistance payments (HAP) contract
- Special policies concerning special housing types (e.g., shared housing)
- Policies concerning payments of amounts owed to the PHA by a family
- Interim redeterminations of family income and composition
- Restrictions, if any, on the number of moves by a participant family
- Approval by the PHA's board of commissioners or other authorized officials to charge the administrative fee reserves
- Procedural guidelines and performance standards for conducting required inspections
- PHA screening of applicants for family behavior or suitability for tenancy.

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PHA RESPONSIBILITIES

CFR 982.52 & 982.153

- A PHA must comply with its administrative plan, its consolidated ACC, its HUD-approved applications for program funding, HUD regulations and other requirements, and all equal opportunity requirements imposed by contract or federal law.
  - The annual contributions contract (ACC) is a contract between HUD and the PHA in which:
    - HUD agrees to make payment to a PHA, over a specified term, for housing assistance payments to owners and for administrative costs
    - The PHA agrees to administer the HCV program in accordance with HUD regulations and requirements
- Typical PHA responsibilities are:

HCV GB, pp. 4-1 – 4-4

- Publish and disseminate information about the nature of the HCV program and the availability of assistance under the program

CFR 982.301
HCV GB, pp. 1-13, 2-4 – 2-6

- Explain the program to families and owners

CFR 982.206(b)(2)

- Receive applications from families

CFR 982.204

- Maintain a waiting list

CFR 982.202

- Select applicants

CFR 982.201

- Determine family eligibility

CFR 982.516

- Examine and verify family income, size, and composition at admission and during program participation

CFR 982.301

- Provide housing briefings to families selected and issue vouchers

CFR 982.551(h)(2)

- Determine who can live in a unit at admission and during participation

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CFR 982.508 *CFR 982.507*	- Determine maximum rent to owner and rent reasonableness
CFR 982.405	- Inspect units before assisted occupancies and at least annually during assisted tenancies
CFR 982.451(b)	- Determine housing assistance payments (HAPs) for families and make timely payments
CFR 982.451	- Administer and enforce owner compliance with the HAP contract
CFR 982.552	- Determine whether to terminate assistance to a participant family for violation of family obligations
CFR 982.554 *CFR 982.555*	- Conduct hearings/reviews and process appeals
HUD-52520 *CFR 982.159*	- Provide sound financial management of the program, including engaging independent public accountants to conduct audits.

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MEANING OF THE LETTERS AFTER A SOCIAL SECURITY OR MEDICARE NUMBER

CODE	IDENTIFICATION	CODE	IDENTIFICATION
A	Primary claimant (wage earner)	E5	Surviving divorced father
B	Aged wife, age 62 or over	F1	Parent (father)
B1	Aged husband, age 62 or over	F2	Parent (mother)
B2	Young wife, with a child in her care	F3	Stepfather
B3	Aged wife, age 62 or over, second claimant	F4	Stepmother
B5	Young wife, with a child in her care, second claimant	F5	Adopting father
B6	Divorced wife, age 62 or over	F6	Adopting mother
BY	Young husband, with a child in his care	HA	Disabled claimant (wage earner)
C1-C9	Child - Includes minor, student, or disabled child	HB	Aged wife of disabled claimant, age 62 or over
D	Aged widow, age 60 or over	M	Uninsured – Premium health insurance benefits (Part A)
D1	Aged widower, age 60 or over	M1	Uninsured – Qualified for but refused health insurance benefits (Part A)
D2	Aged widow (second claimant)	T	Uninsured – Entitled to HIB (Part A) under deemed or renal provisions, or fully insured who have elected entitlement only to HIB
D3	Aged widower (second claimant)	TA	Medicare qualified government employment (MQGE)
D6	Surviving divorced wife, age 60 or over	TB	MQGE aged spouse
E	Surviving mother	W	Disabled widow
E1	Surviving divorced mother	W1	Disabled widower
E4	Widowed father	W6	Disabled surviving divorced wife

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Procedures for Verification of Disability

1. Review the application or recertification form to see if the person checked "yes" or "no" to the question about disability.
2. For participants: If they checked "yes," check the EIV system to see if they receive Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). Receipt of these benefits is verification that they are disabled. If EIV shows they receive SSI or SSDI, and the participant agrees with the information, then no verification of disability is needed.
3. For applicants: If they checked "yes," since EIV is not available, require them to bring in an award letter from SSA dated within 60 days of the interview date. This can be obtained online at www.SSA.gov or by calling (800) 772-1213. Once you receive the award letter showing SSI or SSDI with a dollar amount, no further verification in needed. **NOTE:** The Section of EIV that says disability "yes" or "no" is **not** verification of disability.
4. If they receive Social Security, verify that the benefit is a disability benefit and not a retirement or spousal benefit. Generally, anyone who receives Social Security on their record who is under 62 is receiving a disability benefit. On the award letter, pay attention to the codes adjacent to their Social Security number. These codes are sufficient to verify their disability.
5. If the person does not receive SSI or SSDI, or the specialist cannot verify that Social Security benefits are for a disability, then send a verification of disability to a knowledgeable profession. Follow your verification procedures in your administrative plan if you do not receive a response from the knowledgeable professional within a reasonable time. **NOTE:** Your agency should develop two different forms of verification of disability. One should contain the reasonable accommodation definition of *disability* and one should contain the HUD definition of *disability.*

REASONABLE ACCOMMODATION VERIFICATION FORM SAMPLE LANGUAGE

- HUD has not developed a sample reasonable accommodation verification form, therefore PHAs must develop their own. The following are suggestions to consider when developing this form:
  - Verification forms should ask whether an individual meets the Fair Housing Act definition of disability
  - The specific accommodation requested should be listed
  - Provide space for the knowledgeable professional to provide information about the nexus or connection between the request and the disability
  - Provide space for contact information for the knowledgeable professional as well as their signature
    - It is common for PHAs to include a fraud clause on these forms
- When developing a form:
  - It's a good idea to contact your local advocacy groups or legal aide and get their feedback
  - Share forms with neighboring PHAs
  - Do a web search to see how other agencies have done it

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DEFINITIONS UNDER VAWA

CFR 5.2003

- Domestic violence includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- *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 will 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.

- *Sexual assault* means any nonconsensual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.
- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's individual safety or the safety of others; or
  - Suffer substantial emotional distress
- *Affiliated person* means the tenant's spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant's household; or anyone for whom the tenant acts as parent/guardian of a victim of domestic violence, dating violence, sexual assault, or stalking.
- *Victim* means any victim of VAWA violence/abuse, regardless of actual or perceived sexual orientation, gender identity, sex, or marital status.

EVICTING OR TERMINATING ASSISTANCE OF A PERPETRATOR

CFR 5.2009(a)

- An owner may bifurcate a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking:
  - Regardless of whether the household member is a signatory of the lease
  - Without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such criminal activity who is also a tenant or lawful occupant

- Lease bifurcations must be carried out in accordance with requirements and procedures prescribed by federal, state, and local law for termination of assistance or leases, and in accordance with program requirements.

Notice PIH 2017-08

- In lease bifurcations for mixed families where the eligible individual is the perpetrator, the PHA must provide any remaining tenant or tenants that were not already eligible a period of 30 calendar days from the date of bifurcation of the lease to establish eligibility in the same or another housing program or find alternative housing. The 90-day time period does not apply to HCV or public housing.

CFR 5.2009(c)

- PHAs are encouraged to undertake any permissible and feasible actions under the program to assist individuals that are victims to remain in their units or other units under the same or other program and to bear the costs of any transfer, if permissible.

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Notes

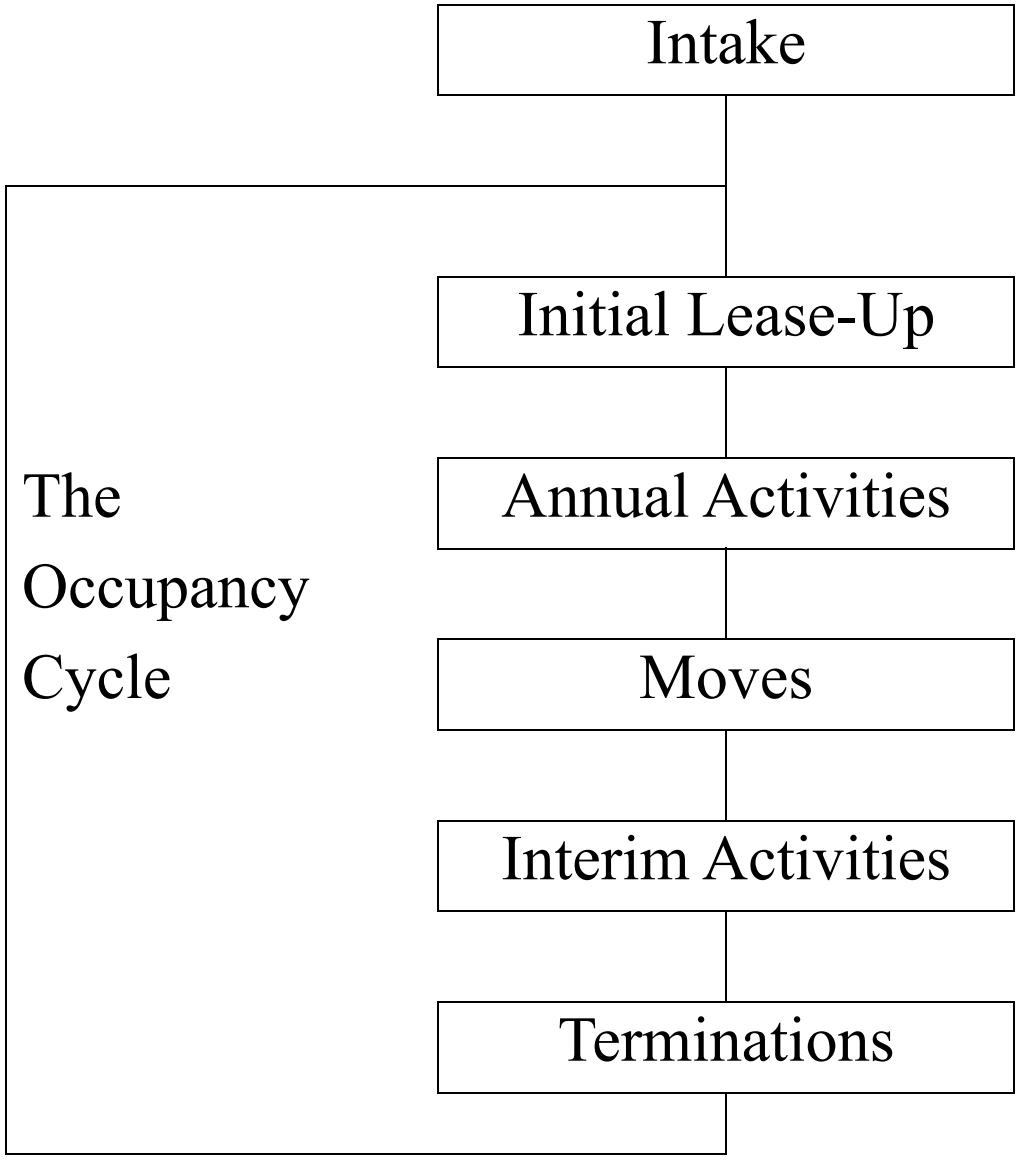
CHAPTER 2 Waiting List Management

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Describe the application process
  - Differentiate between special admissions and waiting list admissions
  - Discuss the general requirements for waiting lists, including preferences

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THE OCCUPANCY CYCLE



INTAKE PROCESS

1. Preapplication	2. Waiting List	3. Needs Estimation	4. Final Eligibility

CFR 982.201 – 982.206

a. Family submits preapplication if waiting list is open.

b. Preapplication has less information (usually not verified) than full application but enough to determine preliminary eligibility and placement on list.

CFR 982.201(f)

c. If family is ineligible, letter sent:

- Notifying of ineligibility
- Stating reasons for determination
- Explaining how to request informal review.

1. Preapplication	**2. Waiting List**	3. Needs Estimation	4. Final Eligibility

CFR 982.207

a. PHA applies admission preferences (if any) to families on waiting list.

HCV GB, pp. 4-5 – 4-7

b. PHA purges waiting list often enough to keep it as up-to-date as possible. (PHA should establish policy.)

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INTAKE PROCESS

1. Preapplication	2. Waiting List	**3. Needs Estimation**	4. Final Eligibility

Industry Practice

a. PHA estimates available openings based upon the availability of funding and projected contract turnover.

- PHA should project openings about 90 days ahead, not wait until they occur.

Industry Practice

b. PHA estimates number of families needed.

- Estimate will be influenced by healthiness of waiting list.
- PHA should look at past data for projecting lease-up.

CFR 982.207 & 982.201(b)(2)

c. PHA selects families from waiting list based on preferences claimed and income targeting requirements.

HCV GB, pp. 4-17 – 4-18

d. PHA verifies preferences for families selected.

- PHA sends family preference claim and verification form.
  - * If the preference doesn't verify, the family is placed in the proper order on the waiting list without the preference. A PHA may offer the family the opportunity to appeal the preference denial (PHA policy).
  - * If preference verifies, PHA proceeds to final eligibility verification.

CFR 982.204(c)

e. If family does not respond, PHA sends notice of denial of assistance and opportunity for informal review. When period expires, family is removed from waiting list. PHA may elect to send follow-up letters.

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INTAKE PROCESS

1. Preapplication	2. Waiting List	3. Needs Estimation	**4. Final Eligibility**

Industry Practice

a. PHA schedules family for interview (or asks family to contact PHA to set up interview).

Industry Practice

b. Application form completed. Family signs release forms. PHA photocopies documents submitted by family.

CFR 5.512
Notice PIH 2023-27

c. PHA processes applicable noncitizen verifications and follows HUD's verification hierarchy for verifying other eligibility factors.

- If higher-level verifications are not obtained within time frame in administrative plan, PHA uses lower levels of verification and documents reason in file.

CFR 5.901 – 5.905
CFR 982.552 – 982.553

d. PHA requests criminal records for household members as described in PHA administrative plan.

CFR 982.201(b)
CFR 5.628

e. PHA compares annual income to income limits and calculates total tenant payment.

CFR 982.204(d)(2)

f. PHA determines if money is available to fund family. If so, final eligibility is determined.

CFR 982.201(f)

- If family is ineligible, PHA sends notice of denial and opportunity for informal review.

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LEASE-UP PROCESS

5. **Briefing & Voucher Issuance**	6. Request for Tenancy Approval & Lease Submitted	7. NSPIRE Inspection	8. Approval & Execution

CFR 982.301(a)

a. Briefing—group or individual at PHA option—is held to explain program and issue voucher.

CFR 982.303(a)

b. Initial term of voucher is at least 60 days. Family has time specified on voucher to find unit.

c. Family searches for unit.

5. Briefing & Voucher Issuance	**6.** **RFTA & Lease Submitted**	7. NSPIRE Inspection	8. Approval & Execution

a. Family finds unit to lease and discusses program with owner.

CFR 982.302(c)

b. Family submits request for tenancy approval (RFTA) and copy of lease.

- Lease must include tenancy addendum.
- RFTA must be submitted during term of voucher in manner required by PHA.

CFR 982.352(a)

c. PHA determines that unit is eligible.

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LEASE-UP PROCESS

5. Briefing & Voucher Issuance	6. RFTA & Lease Submitted	**7. NSPIRE Inspection**	8. Approval & Execution

CFR 982.305(b)(2)(i)

a. PHA schedules and conducts inspection according to National Standards for the Physical Inspection of Real Estate (NSPIRE).

CFR 982.305(b)(2)(i)

b. PHA notifies owner and family of inspection results.

CFR 982.405(d)

c. If necessary, owner makes repairs within PHA-specified time frame, and PHA verifies failed items were corrected.

d. If owner does not agree to make necessary repairs, PHA disapproves unit and family must find another unit to continue process.

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LEASE-UP PROCESS

5. Briefing & Voucher Issuance	6. RFTA & Lease Submitted	7. NSPIRE Inspection	**8. Approval & Execution**

CFR 982.306

a. PHA determines that owner is approvable.

CFR 982.305(a)
CFR 982.507

b. PHA determines that rent is reasonable (i.e., comparable to rents for similar units in private, unassisted market).

CFR 982.506

- If rent is not reasonable, family negotiates or requests PHA to negotiate.

CFR 982.305(a)

c. If gross rent exceeds payment standard, PHA determines that rent is affordable (i.e., family share does not exceed 40 percent of monthly adjusted income).

d. If everything is approvable, documents are executed:

CFR 982.308(b)(1)

- Owner and family execute lease.

CFR 982.305(e)

- Owner and PHA execute contract.

CFR 982.309(a)

e. Assisted tenancy begins on effective date stated in lease and HAP contract.

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Section 2.1 Waiting List Management

INITIAL APPLICATION

CFR 982.202(d)

ADMISSION POLICY

- The PHA must admit applicants for participation in accordance with HUD regulations and other requirements.
- The PHA must adhere to the policies stated in the PHA administrative plan and the PHA plan.

INITIAL APPLICATION FOR ASSISTANCE

CFR 1.4 and CFR 982.206 (a) &(b)(2)

- All persons who express a desire to participate in the program must be given an equal opportunity to apply for assistance whenever the waiting list is open, unless there is good cause for not accepting the application such as denial of assistance because of action or inaction by members of the family for grounds stated in 982.552 and 982.553.

CFR 1.4

- The PHA is responsible for receiving and processing applications in a way which treats all applicants fairly and consistently.

Industry Practice

- With a long waiting list, PHAs usually use a preapplication that collects only the information necessary to make a preliminary eligibility determination. A complete application is then taken just prior to voucher issuance or offer of a public housing unit.

Industry Practice

- An exception to this procedure is if the waiting list is short (e.g., families could be selected within six months), the PHA may bypass the preapplication and take a full application. In addition, the PHA could opt to take full applications for all families, regardless of the wait, but it is time-consuming.

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HCV GB, p. 4-12

- PHA policy may allow for applications to be received by mail, by fax, in person at the PHA's offices, over the internet or at other locations established by the PHA, or by telephone or through home visits (reasonable accommodation).

Notice PIH 2012-22

- Form HUD-92006, Supplement to Application for Federally Assisted Housing, must be provided to families "at the time of application." The form gives the family the option to provide contact information for a friend, family member, organization, or advocate that can assist in providing services or special care to the family, and in resolving any tenancy issues that may arise.
  - The family is not required to provide the information.
  - The PHA should give the family the opportunity to revise or remove contact information at admission, annual reexamination, or at any other time.

CFR 982.554(a)

- If the family is obviously ineligible, the PHA must notify the applicant in writing of the:
  - Reasons for the determination, and
  - Family's right to an informal review.
  - How to arrange for the review.

CFR 982.205(a)(2)

- The PHA should make applicants aware of other housing programs it operates, how to apply, and must offer to place them on the appropriate waiting list for such programs if those lists are open.

ORGANIZING WAITING LISTS

SPECIAL ADMISSIONS

CFR 982.202(a)

- Applicants can be admitted for participation in the program as either a special admission or as a waiting list admission.

CFR 982.4

- Special admission (non-waiting list) is defined as:
  - Admission of an applicant not on the PHA waiting list, or admission without considering the family's position on the waiting list.

CFR 982.203(a)

- PHAs can assist families who are not on the waiting list (special admissions) when HUD awards funding that is targeted for families living in specified units.
  - Funding must be used for the families living in these units.
  - PHA must maintain records showing that family was admitted with HUD targeted assistance.

CFR 982.203(b)

- Examples of types of program funding that may be targeted for a family living in a specified unit include:
  - Families displaced because of demolition or disposition of a public or Indian housing project
  - Families residing in a HUD-owned multifamily rental housing project when HUD sells, forecloses, or demolishes the project.

CFR 982.204(a)

GENERAL REQUIREMENTS FOR WAITING LISTS

- PHAs must organize the waiting lists to assure that applicant selection takes place according to program requirements and PHA policy.

CFR 982.204(b)

- The waiting list must be organized to indicate the following:
  - Applicant name
  - Family unit size
  - Date and time of application receipt and application number (if applicable)
  - Qualification for any local preferences for which the family may be eligible
  - Racial or ethnic designation of head of household.

- The waiting list must contain enough information to allow selection from the waiting list according to the PHA's administrative plan (for HCV).

CFR 985.3(a)

- Any system the PHA uses to maintain its waiting list must document how and when applicants are selected in a way that allows for a clear, easy-to-understand HUD management review.
- ***Note***: The waiting list is the beginning of a "paper trail" and must enable a reviewer to immediately determine if the selection process is in accordance with the PHA's policies.

TARGETED FUNDING FOR SPECIFIED CATEGORY OF WAITING LIST FAMILIES

CFR 982.204(e)

- When HUD awards a PHA funding for a specified category of families on the waiting list, the PHA must select applicant families in the specified category.
  - Family Unification Program
  - Shelter Plus Care
  - Housing Opportunities for Persons with AIDS (HOPWA)

CFR 982.204(d)(1)

TARGETED FUNDING TYPES

- The following are various types of targeted funding a PHA may administer:
  - **HUD Veterans Affairs Supportive Housing (HUD-VASH)**: This special allocation of vouchers is not subject to selection from the PHA waiting list. Rather, selection for participation is based on referrals to the PHA from the participating Veteran's Affairs medical center.
  - **Family Unification Program (FUP)**: Families eligible for participation are selected from the HCV program waiting list and must be approved as eligible by the Department of Children and Family Services (DCFS). Allocations are provided to PHAs to assist families who have lost, or are in danger of losing, their children to foster care but who may be able to retain custody of their children or reunite the family if they can obtain adequate housing.
  - **Mainstream Housing Opportunities for Persons with Disabilities**: Periodically, funds are available to PHAs and nonprofits that provide services to disabled families that enable elderly and non-elderly persons with disabilities who face difficulties locating suitable and accessible housing to lease affordable units. The vouchers are available regardless of the type of disability. Recipients are selected from the regular HCV waiting list.
  - **Shelter Plus Care**: The shelter plus care program provides rental assistance for hard-to-serve homeless persons with disabilities in connection with supportive services funded from sources outside the program. The program is designed to provide housing and supportive services on a long-term basis for homeless persons with disabilities and their families who are living in places not intended for human habitation (e.g., streets) or in emergency shelters.

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- **Housing Opportunities for Persons with AIDS**: HOPWA funding provides housing assistance and related supportive services to persons with AIDS/HIV. Grantees are encouraged to develop community-wide strategies and form partnerships with area nonprofit organizations. HOPWA funds may be used for a wide range of housing, social services, program planning, and development costs. These include, but are not limited to, the acquisition, rehabilitation, or new construction of housing units; costs for facility operations; rental assistance; and short-term payments to prevent homelessness. HOPWA funds also may be used for health care and mental health services, chemical dependency treatment, nutritional services, case management, assistance with daily living, and other supportive services.

- ***Note**:* Any other programs designated under HUD-awarded funding should be administered in accordance with the applicable HUD requirements.

FAMILY SIZE AT ADMISSION

CFR 982.204(d)(2)

- The number of assisted families a PHA is able to serve is the number of families supported by available funding.

- The order of admission cannot be based on family size or the unit size for which the family qualifies. PHAs are not permitted to select families based on predetermined unit size distribution.

- Families are selected in order and receive the appropriate subsidy for the family size.

- If funds are not available to assist the next family, the family cannot be skipped to admit a smaller family.

UTILIZATION AND THE WAITING LIST

- Each PHA is allocated a certain number of housing choice vouchers to be issued to families. Every year, each PHA is also awarded annual budget authority (ABA), which is funding used to pay housing assistance payments (HAP) to owners, make family self-sufficiency (FSS) escrow deposits, and make utility reimbursement payments. The PHA also earns administrative fees based on the number of units under lease as of the first of each month. These fees are used to pay salaries, insurance, and other program administration expenses.
- *Utilization* refers to the degree to which the PHA uses available annual budget authority by leasing units. If a PHA is too underleased, then families in the community are not being served, the PHA may see less funding in future years, and the PHA is losing out on administrative fee income that is paid out for units that are under lease. Conversely, being overleased can cause an agency to spend too much of its resources.
- One of the most important responsibilities of an HCV manager is managing program utilization to ensure that the HAP annual budget authority (ABA) is used to assist as many eligible participants as funding will support, and that calendar year leasing does not exceed the number of authorized units or funded dollars for the PHA.

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REMOVAL FROM WAITING LIST

CFR 982.204(c)

- The administrative plan must state policy for removal from waiting list.
  - Examples are failure to respond to requests for information or updates, or refusal of assistance under the Housing Choice Voucher program.
  - Policy must not violate rights of disabled persons under regulations.

Industry Practice

- PHAs should document the reason any applicant's name was removed from the waiting list.
- Examples of acceptable policy on when an applicant's name may be removed from the waiting list include:
  - Applicant requests it,
  - Applicant was clearly advised of a requirement to notify the PHA of its continued interest by a particular time and failed to do so,
  - PHA has made reasonable efforts to contact the applicant to determine if there is continued interest, but has been unsuccessful, or
  - PHA has notified the applicant of its intention to remove the applicant's name because of ineligibility.

CFR 8.4

- PHA must provide reasonable accommodation.
  - Example: home visits for those who cannot come to office.
- PHA is obligated to make application process available to applicants with a full range of disabilities.

CFR 982.204(c)(2)

- If an applicant does not respond to the PHA's request for information or update because of a family member's disability, the PHA must reinstate the applicant to the family's former position on the waiting list.

OTHER HOUSING ASSISTANCE

CFR 982.205(b)

- The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing assistance:
  - Refuse to place the applicant on the tenant-based waiting list
  - Deny any admission preference for which the applicant currently qualifies
  - Change 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
  - Remove the applicant from the waiting list.

CFR 982.205(b)

- *Other housing assistance* means a federal, state, or local housing subsidy as determined by HUD, including public housing.

CFR 982.551(n)

- A family cannot receive assistance in more than one assistance program at the same time.

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Section 2.2 Preferences

CFR 982.207(a)(1)

- A PHA may establish a system of local preferences for the selection of families admitted to the Housing Choice Voucher program.

HCV Program GB 4-16

- Preferences are optional.
- Preferences only affect the order of applicants on the waiting list
- Preferences do not make anyone eligible who was not otherwise eligible, and they do not change the right of an owner or a PHA to adopt and enforce tenant screening criteria.

HCV Program GB 4-18

- If a PHA does not have a system of local preferences, applicants are selected from the waiting list in sequence according to the date and time of their applications or the result of a random drawing.
- If a PHA has a preference system, an applicant that qualifies for a preference may be issued a housing choice voucher before an applicant that applied earlier but has no preference.

CFR 982.202(d) & 982.207(a)(1)

- A PHA's selection preferences must be described in its administrative plan.

HCV Program GB 4-18

- A PHA should clearly define any preferences that it adopts.
  - The definitions should be simple enough so that:
    - Families claiming preferences clearly understand what they are claiming
    - Preferences can be easily verified.

HCV Program GB 4-16

- A PHA must explain each preference to applicants and provide them with an opportunity to show that they are qualified for the preference.

CFR 982.207(a)(3)

- A PHA may limit the number of applicants that may qualify for any local preference.

CFR 982.207(c)

- A PHA may use either of the following to select among applicants with the same preference status:
  - Date and time of application
  - A drawing or other random choice technique.

COMMON PREFERENCES

RESIDENCY PREFERENCE

CFR 982.207(b)(1)(i)

- Residency requirements are prohibited, but residency preferences are allowed.

CFR 982.207(b)(1)(ii)

- A residency preference is a preference for admission of persons who reside in a specified geographic area.
  - The specified geographic area may be a county or municipality, but it may not be a smaller area.

HCV Program GB, 4-15

- A PHA may give a selection preference to families who live in public housing or other federally assisted housing, or may adopt a local residency preference.

CFR 982.207(b)(1)(v)

- Applicants who work or have been hired to work in a residency preference area must be treated as residents of the preference area.
  - Graduates of or active participants in education and training programs in a residency preference area may be treated as residents of the area if the programs are designed to prepare individuals for the job market.

CFR 982.207(b)(1)(iv)

- A residency preference must not be based on how long an applicant has lived or worked in the preference area.

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PREFERENCE FOR WORKING FAMILIES

CFR 982.207(b)(2)

- A PHA may adopt a preference for working families.
  - A working family is one whose head, spouse, or sole member is employed.

HCV Program GB 4-18

    - A PHA must decide whether this includes a family in training.

CFR 982.207(b)(2)

- If a PHA adopts a preference for working families, it must extend the benefit of the preference to families whose head and spouse, or sole member is age 62 or older or is a person with disabilities.

Admissions/Occupancy Final Rule, FR 3/29/00 (preamble)

- A working family preference cannot be based on the amount of earned income.

PREFERENCE PROHIBITIONS

- A PHA may not adopt a preference for admission of:

CFR 982.207(b)(3)

  - Persons with a specific disability

HCV Program GB 4-16

  - Higher-income families over lower-income families

HCV Program GB 4-16

  - Families who agree to participate in the family self-sufficiency program.

CFR 982.207(a)(4)

- A PHA may not deny a local preference solely because the family resides in a public housing project.

HCV Program GB 4-19

- Although a PHA can establish a preference system to admit families with certain characteristics from the waiting list, admission to the program may never be based on certain forms of discrimination.

HCV Program GB 4-17

CERTIFICATION OF PREFERENCE

- At the time of initial application, applicants only need to certify that they are eligible for a preference; they do not have to verify their eligibility.
- A PHA may place families on its waiting list according to the preferences they claim.

VERIFICATION OF PREFERENCE

- PHAs do not have to verify a claimed preference at the time of initial application.

HCV Program GB 4-17

- Before a family receives assistance, a PHA must verify that the family qualifies for any preference based on the family's current circumstances.
- PHAs should adopt procedures for verifying preferences.

CFR 982.207(e)

- The method for selecting applicants from a preference category must leave a clear audit trail to verify each applicant has been selected in accordance with the method specified in the administrative plan.

Industry Practice

- Once a preference has been verified, it does not need to be reverified unless:
  - Reverification is desired because a long time has passed
  - A PHA has reasonable grounds to believe an applicant no longer qualifies.

NOTICE OF PREFERENCE DENIAL

HCV Program GB 4-17

- If, upon verification, a PHA determines that a family does not qualify for a preference it has claimed, then the PHA must deny the preference and provide a written notice to the family stating the reasons for the determination.
- Note that PHAs may choose to provide the family with a method of disputing the preference denial but are not required to.

Section 2.3 Full Application Stage

APPLICANT SELECTION PROCEDURES

CFR 982.54(a)

- The PHA must specify its admission criteria in its administrative plan.
- Selection is made sequentially based on verification that the family is eligible for the program.

APPLICANT INTERVIEWS

CFR 982.207(e)

- When selected from the waiting list, the family is interviewed by the PHA, and a detailed application completed.
- Because the verification and selection process may take up to 90 days to complete, PHAs should schedule applicant interviews well in advance of when a voucher will be available.
- The PHA should provide applicants enough notice that they can gather any preliminary documentation requested and arrange their schedule to attend the interview.

CFR 8.6

- PHA must provide materials for sight-impaired and hearing-impaired persons.

Industry Practice

- The interviewer should:
  - Provide an explanation of the program to the applicant, including the family's responsibilities while receiving assistance
  - Assist the applicant in completing the required forms, and obtain the applicant's authorization to verify the information provided
  - Determine on a preliminary basis whether the applicant is eligible

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  - Collect the documentation the applicant brings to the interview and give clear instructions and deadlines for additional information needed to complete the application process
  - Inform the applicant that a final eligibility determination will be made when the information provided is verified
- Various HUD regulations require the PHA to verify:
  - Type of family (for purpose of preferences and allowances)
  - Income/assets of all family members
  - Appropriate allowances and/or deductions
  - Local preference claims
  - Documentation required by local PHA policy

CFR 5.216
  - Social Security numbers for all household members, except noncontending persons

CFR 5.512
  - Eligible immigration status

60 DAY VERIFICATION REQUIREMENT

CFR 982.201(e)

- PHAs must obtain verification of eligibility no more than 60 days before initial issuance of a voucher.
- While eligibility must be determined within 60 days before voucher issuance, the documentation received during that time must be dated within 120 days of when it was received by the PHA, with the exception of fixed-income sources which must be dated within the appropriate benefit year.

Learning Activity 2-1: Waiting List Management Knowledge Check

1. Preferences have to be verified before an applicant is placed on the waiting list.
   a. True
   b. False
2. Applicants must always complete their application for assistance in the PHA's office.
   a. True
   b. False
3. Eligibility must be determined within _____ days of voucher issuance:
   a. 120 days
   b. 90 days
   c. 60 days
   d. None of the above
4. When applying for housing, the applicant:
   a. Must be allowed to apply for all programs that have open waiting lists
   b. Must decide which one program's waiting list they wish to be placed on
   c. Must apply in person
   d. Must complete the application in their own handwriting
5. The Garcia family applied for both public housing and HCV. Their name came up on the public housing list and they were housed. What happens to their name on the HCV list?
   a. Their name is removed from the HCV list now that they have been housed
   b. Their name remains on the HCV list, but they are not offered assistance
   c. Their name remains on the HCV list, and they are offered assistance when their name comes to the top
   d. It depends on the PHA's policy

6. PHAs must always reinstate families to the waiting list that include a person with a disability if the family doesn't respond.
   a. True
   b. False
7. It is not necessary for a PHA to ever verify preferences claimed by an applicant family.
   a. True
   b. False
8. A special admission may be admitted to the HCV program even if the family is not on the waiting list.
   a. True
   b. False
9. HUD requires that all PHAs adopt waiting list preferences in their administrative plan. A family may not be selected based on the date and time of their application alone.
   a. True
   b. False

Section 2.4 NMA Continued Learning: Local Preferences in Current Regulations

PREFERENCE FOR VICTIMS OF DOMESTIC VIOLENCE

QHWRA Notice, FR 2/18/99, CFR 982.207(b)(4)

- HUD urges PHAs to consider adopting a preference for admission of families that include a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
  - Although the VAWA 2022 statute does not specifically do so, HUD has recently begun 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, we have opted to include human trafficking in this text in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.
- *Domestic violence* - Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner

- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

- *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
- *Sexual assault* - Any nonconsensual sexual act proscribed by Federal, tribal, or state law, including when the victim lacks the capacity to consent.

CFR 5.2003

- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for the person's individual safety or the safety of others; or
  - Suffer substantial emotional distress.

HUD Guidance

- In defining this preference, a PHA may include the following guidelines in line with the old federal preferences:
  - An applicant may qualify for a preference for victims of domestic violence if the applicant:
    - Vacated a unit because of domestic violence
    - Lives in a unit with a person who engages in violence

- An applicant who qualifies for the preference should certify that the person who engaged in the violence will not reside with the applicant family unless the PHA gives advance written approval
    - If the family is admitted, the PHA may deny or terminate assistance for breach of the agreement.

SINGLES PREFERENCE

CFR 982.207(b)(5)

- A PHA may adopt a preference for single persons who are elderly, displaced, homeless, or disabled over other single persons.
    - If no singles preference is adopted, singles will have equal preference status with everyone else.

OTHER PREFERENCES

CFR 982.207(b)(3)

- A PHA may adopt a preference for admission of families that include a person with disabilities.
    - However, the PHA may not adopt a preference for admission of persons with a specific disability.

CFR 982.207(a)(4)

- A PHA may establish a preference for admission of families residing in public housing who are victims of a crime of violence (as defined in 18 U.S.C. 16).

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CHAPTER 3 Evaluating Eligibility

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Recognize all of the factors of eligibility and how they affect families
  - Identify the different family types defined by HUD
  - Explain the requirements for disclosure and documentation of Social Security numbers and the requirements for verification
  - Categorize the different types of citizenship status and family types of applicants as well as the resulting types of families and identify how citizenship status affects eligibility and rent
  - Use income limit data and describe how those limits play a role in the eligibility process
  - Apply the student rule to the eligibility process

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Section 3.1 Family Types

CFR 5.403

- HUD's definition of family 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, displaced person, disabled person, near-elderly person, or any other single person;
    - An otherwise eligible youth between the ages of 18 and 24 who has either left foster care or will leave foster care within 90 days, and who is homeless or at risk of becoming homeless at age 16 or older; or
  - A group of persons residing together, and such a 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
    - The remaining member of a tenant family

24 CFR 5.100

- *Gender identity* means actual or perceived gender characteristics.
- *Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

CFR 982.54(d)(4)(i)

- PHA policy determines (in the administrative plan) what groups other than the HUD-defined groups constitute a family.

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Notice PIH 2014-20

- HUD requires written policies governing PHA response to complaints under the Equal Access Rule. The rule applies to HCV landlords after execution of HAP contract,

Form HUD-50058 Instruction Booklet

COHEAD

- An individual in the household who is equally responsible for the lease with the head of household.
- Indicate either a spouse or a cohead, but not both.
- A cohead never qualifies as a dependent. However, a cohead may be under 18 years old if declared an "emancipated minor", as many states will allow an emancipated minor to sign a lease.

CFR 5.403
FR Notice 02/03/12

ELDERLY FAMILY

- An elderly family includes:
  - A family whose head (including cohead), spouse, or sole member is at least 62 years of age
  - Two or more persons at least 62 years of age living together
  - One or more persons at least 62 years of age living with one or more live-in aides.

CFR 5.403

DISABLED FAMILY

- A family whose head (including cohead), spouse, or sole member is a person with disabilities.
- Two or more persons with disabilities living together.
- One or more persons with disabilities living with one or more live-in aides.

PERSONS WITH DISABILITIES

- Note: See full definition under "Legislative Reference" in Chapter 1.

CFR 5.403

DISPLACED FAMILY

- A family in which each member or 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 formally recognized pursuant to federal disaster relief laws.

CFR 5.403

SINGLE PERSONS

- All single persons are eligible if they meet other eligibility criteria.
- A single-person family may be:
  - An elderly person (62 and over)
  - A displaced person
  - A disabled person
  - Any other single person who is not elderly, displaced, disabled, or the remaining member of a tenant family.

CFR 5.609(c)(2)

CHILD CUSTODY

HUD Guidance

- PHA policy determines whether to count a child as part of the family when:
  - A family member does not have full custody of the child
  - A child lives only part of the time with the family
- Policy should consider custody and the amount of time the child spends with the applicant/participant.
- If the child does not currently reside with the applicant, the PHA should consider the child part of the family only if there is evidence that the child would reside with the applicant if the applicant were issued a voucher.
- The same child should not be claimed by more than one applicant.

CFR 5.609

- If a child is included as part of the family, typical determinations on income and allowances are to be made.

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CFR 5.100

HOUSEHOLD

- The household includes everyone who lives in the unit.
- The family includes all household members except live-in aides and foster children and adults.

FOSTER CHILDREN AND ADULTS

CFR 982.551(h)(4); 982.401(d)(2)(ii);5.603(b)

- With PHA approval, families may have foster children or foster adults live with them if it would not result in overcrowding. PHA policy states when PHA approval may be given or denied.
- HUD defines 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.
- HUD defines a foster child as 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.

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ELIGIBILITY FAMILY DESCRIPTIONS

- Directions: The following families will be used for case studies in the eligibility section.

THE FRASIER FAMILY

- The Frasier family is an applicant family that consists of head of household Jamie Frasier (age 48, eligible noncitizen) and his wife Claire (age 51, eligible citizen). Claire is a person with disabilities. They are the only members of their family. Claire is a full-time student. She collects SSDI in the amount of $850 per month. Jamie works full-time in a grocery store earning $9.50 per hour. They also receive a regular contribution from Claire's mother of $100 per month. The PHA has calculated an asset income of $995, an annual income of $31,160, and a total annual income of $32,155.

THE PERRY FAMILY

- The Perry family is an applicant family that consists of head of household Ashley Perry (age 37) who has been living with her boyfriend Steven (age 38) for the last year, and their two children Katy (age 10) and Russell (age 8). No one in the family is disabled. All family members are eligible citizens. The family claims to be zero income on their initial application. The PHA requested the family fill out a zero-income questionnaire, and the family did not identify other sources of income.

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Learning Activity 3-1: Family Type

- Using the following excerpt from a PHA's definition of *family* in their administrative plan, decide whether the Frasier and Perry families are eligible for admission to the PHA's HCV program. Refer to the previous page for a description of each family.

PHA Policy
• A family may be a single person or a group of persons. *Family* as defined by HUD 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 regardless of actual or perceived sexual orientation, gender identity, or marital status. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person. An otherwise eligible youth between the ages of 18 and 24 who has either left foster care or will leave foster care within 90 days, and who is homeless or at risk of becoming homeless at age 16 or older. A family includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but can either demonstrate that they have lived together previously or certify that each individual's income or other resources will be available to meet the needs of the family. Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

1. Is the Frasier family eligible per this PHA's definition of *family?*

2. Is the Perry family eligible per this PHA's definition of *family?*

3. At your PHA, what documentation would you require (if any) from the Frasier family with regard to their family type?

4. At your PHA, what documentation would you require (if any) from the Perry family regarding their family type?

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Section 3.2 Social Security Number Requirements

- The regulations governing disclosure and verification of Social Security numbers were revised effective January 31, 2010. The current regulations cover the requirements for disclosure and documentation of SSNs for every applicant and participant household member. While applicants and participants must disclose and document SSNs under the regulations, the actual "verification" of SSNs is performed by the PHA through HUD's automated systems. The regulations also provide penalties for failure to disclose or document SSNs.

REQUIRED DISCLOSURE

CFR 5.216; PIH 2023-27

- All assistance applicants and participants must disclose a complete and accurate SSN for each member of the household, including foster children, foster adults, and live-in aides. Children under the age of six are no longer exempt from the requirement. However, documentation may be delayed for children under six years old who have joined the household within the past six months.
- Some household members are exempt from the SSN disclosure requirement. These include:

CFR 5.216(a); PIH 2023-27

  - Individuals who do not contend eligible immigration status ("noncontending" family members in a mixed family receiving prorated assistance).
    - Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements.

CFR 5.216(e)

- Current program participants who had not previously disclosed a SSN, and who were at least 62 years old on January 31, 2010. The exemption applies at all future reexaminations and continues if the individual moves to a new assisted unit or receives another form of housing assistance.

REQUIRED DOCUMENTATION

CFR 5.216(g); Notice PIH 2023-27

- The PHA must accept the following documentation as acceptable evidence of the social security number:
  - An original Social Security card issued by the Social Security Administration.
  - Documentation issued by the Social Security Administration that contains the name and SSN of the individual (e.g., a benefit award letter, Medicare card, or printout).
  - An original document showing the individual's name and SSN, issued by a federal, state, or local government agency. This could include welfare agency documents, military papers, unemployment insurance documents, or any other government-issued documentation.

- 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 PHA has exhausted all other attempts to obtain the required documentation.
  - If verifying an individual's SSN using this method, the PHA 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 PHA 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

CFR 5.216(i); Notice PIH 2023-27

- Since SSNs for all household members are now matched against SSA records through HUD's automated systems, the PHA must generally accept any of the documents listed above. The PHA may only reject documents which:
  - Are not original
  - Appear to be forged, or
  - Appear to be altered, mutilated, or not legible.
- If the PHA rejects the family's documentation, the PHA should explain why the documents were not acceptable. The PHA should then request acceptable documentation within a specified time frame.

- The PHA verifies the SSN by making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the family's file. In addition, the PHA records the SSN on line 3n of form HUD-50058 and transmitting the form to HUD in a timely manner.
  - PHAs are required to submit the form no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.
- HUD allows PHAs, at their discretion, to remove and destroy SSN documentation from the file once the SSN has been validated through the EIV system. The EIV printout will be considered adequate to verify the SSN. Doing so minimizes the risk of exposing the individual's SSN.

WHEN DISCLOSURE AND DOCUMENTATION ARE REQUIRED

- The HUD regulations provide differing time frames for SSN disclosure and documentation. The time limits depend upon the assistance program, type of certification, ages of household members and other factors.

CFR 5.216(b); 5.216(h)

- For HCV applicant families, the SSN for each household member (except noncontending persons) must be disclosed and documented when program eligibility is being determined. If otherwise eligible, the family may retain its place on the waiting list pending SSN disclosure and documentation.
  - If a child under the age of six years has been added to the applicant household within six months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program. The family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the participant or was due to unforeseen circumstances. If documentation is not provided within the time allowed, assistance must be terminated.
- For applicants to the Section 8 Moderate Rehabilitation SRO for Homeless Individuals ("SRO Homeless") program, a longer time period is allowed. The applicant may be admitted to the program and must disclose and document his/her SSN within 90 days. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the participant or was due to unforeseen circumstances.

CFR 5.216(e)

- Current program participants who have not previously disclosed a SSN for any nonexempt household member must do so at the next interim or annual reexamination. This includes children under six for whom a SSN was not previously provided, family members who certified that they had not been assigned a SSN, and other household members.

CFR 5.216(e)(2);

- When adding a new household member to a participant family, the time frames depend upon the age of the new member and whether he or she has been assigned a SSN.
  - If the new household member is at least six years old, or is under six but already has a SSN, the SSN must be disclosed and documented at the time of the request, or during processing of the interim reexamination to add the new member. The new member cannot be added to the household until this requirement is met.
  - If the new household member is under the age of six and has not been assigned a SSN, the participant must disclose and verify the child's SSN within 90 days of the child's addition to the household. The PHA must allow an additional 90 days if it determines that failure to comply was outside the control of the participant or was due to unforeseen circumstances. The PHA must include the child as part of the household during this period and must provide the family with any related benefits such as allowances and deductions.

50058 Instruction Booklet

- PHAs are required to create an alternate ID (ALT ID) in HIP for those individuals who have not been assigned an SSN.

PENALTIES FOR FAILURE TO DISCLOSE/DOCUMENT SSNS

CFR 5.218;

- The PHA must deny assistance for an applicant family if the regulatory requirements for SSN disclosure and documentation are not met. The applicant must disclose and document the SSN for every household member (except noncontending persons) in order to qualify for the program.
- The PHA must terminate assistance of participant households if the regulatory requirements for SSN disclosure and documentation are not met. Assistance must be terminated for the entire household if these requirements are not met for every nonexempt household member.
  - The PHA must defer termination for a period not to exceed 90 days if it determines that the participant's failure to meet the requirements was due to unforeseen circumstances outside the control of the family, and if it is reasonably likely that the participant will be able to disclose and document the SSN(s) by the deadline.
- The PHA must deny admission or terminate the family's assistance, or both, if the family submits falsified SSN documentation.
- The head of household may not remove a household member from the family composition in order to avoid these penalties. Prorated assistance is not permitted in this situation.

POP QUIZ

- EIV has the following information for these four family members. What does that mean?

Relationship	Identity Verification Status
Head	Verified
Other Adult	Verified
Other youth under 18	Verified
Other youth under 18	Verified

Section 3.3 Restriction on Assistance to Noncitizens

PURPOSE OF RULE

CFR Part 5, Subpart E

- The purpose of the regulation is to:
  - Provide implementation procedures
  - Ensure only citizens, nationals, and certain categories of eligible immigrants are assisted
  - Preserve family status.

NOTIFICATION REQUIREMENTS

CFR 5.508

- All families must be notified of the requirement to provide verification of their citizenship status:
  - New applicants must be notified when they apply

ELIGIBILITY FOR ASSISTANCE

- To determine the family type and eligibility status of any family, the eligibility of each individual in the family must first be established.

CFR 5.508

- Individuals will fall into one of these categories:
  - Citizens or nationals
  - Eligible immigrants 62 or older
  - Other eligible immigrants
  - Ineligibles, including noncitizen students on student visas.
- Providing housing assistance to noncitizen students is prohibited.
  - This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student.
  - The prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance.

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Notice PIH 2001-27

- An FAS citizen who is a lawful resident of the United States (including territories and possessions) is eligible for housing assistance.
  - FAS stands for 'the Freely Associated States'
    - Republic of the Marshall Islands
    - Federated States of Micronesia
    - Republic of Palau

CFR 5.504 and 5.506

FAMILY CATEGORIES

- After the status of each person has been determined, families will fall into one of the categories below:
  - All members are either citizens or eligible immigrants
  - Some members are eligible and some are ineligible (mixed family)
  - All members are ineligible immigrants.
- The determination of family type is based on individual determinations:
  - An **eligible** family is one in which each member is a citizen, national or a noncitizen with *eligible* immigrant status
  - An **ineligible** family is one in which no member is a citizen, national or eligible immigrant
  - **Mixed families** are comprised of both citizens or eligible noncitizens *and* those without citizenship or eligible noncitizen status. A mixed family is eligible for prorated assistance.

VERIFICATION REQUIREMENTS

CFR 5.508

- Verification of citizenship or national status is provided directly by the family.
  - Persons who claim citizenship/national status execute a signed declaration (Section 214 Status)
    - PHA policy *may* require verification of either citizen/national declaration in the form of a U.S. passport, resident alien card, registration card, Social Security card or other appropriate documentation
  - Persons 62 and older claim eligible immigration status by executing a signed declaration and providing proof of age
  - Persons who declare themselves ineligible or don't contend eligibility status.
- Noncitizens under 62 who claim eligible immigration status must provide all of the following:
  - A signed declaration of eligible immigration status
  - A United States Citizenship and Immigration Service (USCIS) card or other USCIS document
  - A signed verification consent form.

CFR 5.508

DOCUMENTATION REQUIRED

- PHA documents:
  - Declaration of Section 214 Status
  - Verification Consent Form
  - Listing of Noncontending Family Members
  - Notice of Section 214 requirements
- Eligible immigration documents. [Originals only]

CFR 5.512

- Eligible immigration status must be verified.
  - Verification of eligible immigration status may be obtained through accessing the Systematic Alien Verification for Entitlements (SAVE) Program's Automated Status Verification System (ASVS) online.
    - https://save.uscis.gov/Web/vislogin.aspx?JS=YES

TIMEFRAME FOR SUBMISSION

CFR 5.508(g)(1)

- Applicants present documents at any stage of the application process, but not later than the date the PHA verifies other eligibility factors.
  - Extensions for submission of required documents shall not exceed 30 days.

CFR 5.508(g)(3)

- New occupants joining an assisted family present documents at the first interim or regular reexam following their occupancy.

CFR 5.508(h)(2)

- A time extension may be granted in writing by the PHA if needed for the individual to obtain the needed documentation.

CFR 5.508(g)(5)

- For each family member this is a one-time requirement. If the family moves between units or between programs and the PHA has previously obtained the required verification, the family is not required to produce the documentation again.

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Declaration of Section 214 Status

Notice to applicants and tenants: In order to be eligible to receive the housing assistance sought, each applicant for or recipient of housing assistance must be lawfully within the U.S. Please read the Declaration statement carefully and sign and return to the Housing Authority's Admissions Office. Please feel free to consult with an immigration lawyer or other immigration expert of your choosing.

I, _____ certify, under penalty of perjury,[1] that, to the best of my knowledge, I am lawfully within the United States because (please check the appropriate box):

[ ] I am a citizen by birth, a naturalized citizen or national of the United States; or

[ ] I have eligible immigration status and I am 62 years of age or older. Attach evidence of proof of age[2]; or

[ ] I have eligible immigration status as checked below (see reverse side of this form for explanations). Attach USCIS document(s) evidencing eligible immigration status and signed verification consent form.

[ ] Immigrant status under ¶¶1001(a)(15) or 101(a)(20) of the INA[3]; or

[ ] Permanent residence under ¶249 of INA[4]; or

[ ] Refugee, asylum, or conditional entry status under ¶¶207, 208 or 203 of the INA[5]; or

[ ] Parole status under ¶¶212(d)(f) of the INA[6]; or

[ ] Threat to life or freedom under ¶243(h) of the INA[7]; or

[ ] Amnesty under ¶245 of the INA[8].

_____ _____

(Signature of Family Member) (Date)

[ ] Check box on left if signature is of adult residing in the unit who is responsible for child named on statement above.

PHA: Enter USCIS/SAVE Primary Verification #: _____ Date: _____

[See reverse side for footnotes and instructions]

1 **Warning:** 18 U.S. C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any manner within the jurisdiction of any department of agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

The following footnotes pertain to noncitizens who declare eligible immigration status in one of the following categories:

2 Eligible immigration status and 62 years of age or older. For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on June 19, 1995. If you are eligible and elect to select this category, you must include a document providing evidence of proof of age. No further documentation of eligible immigration status is required.

3 Immigrant status under ¶¶101(a)(15 or 101(a)(20) of INA. A noncitizen lawfully admitted for permanent residence, as defined by ¶101(a)(20) of the Immigration and Nationality Act (INA), as an immigrant, as defined by ¶101(a)(15) of the INA (8 U.S.C. 1101(a)(20) and 1101(a)(15), respectively [*immigrant status*]. This category includes a noncitizen admitted under ¶¶210 or 210A of the INA (8 U.S.C. 1160 or 1161), [*special agricultural worker status*], who has been granted lawful temporary resident status.

4 Permanent residence under ¶249 of INA. A noncitizen who entered the U.S. before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the U.S. since the, and who is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under ¶249 of the INA (8 U.S.C. 1259) [*amnesty granted under INA 249*].

5 Refugee, asylum, or conditional entry status under ¶¶207, 208 or 203 of INA. A noncitizen who is lawfully present in the U.S. pursuant to an admission under ¶207 of the INA (8 U.S.C. 1157) [*refugee status*]; pursuant to the granting of asylum (which has not been "terminated" under ¶208 of the INA (8 U.S.C. 1158) [*asylum status*]; or as a result of being granted conditional entry under ¶203(a)(7) of the INA (U.S.C. 1153(a)7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity [*conditional entry status*].

6 Parole status under ¶212(d)(5) of INA. A noncitizen who is lawfully present in the U.S. as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under ¶212(d)(5) of the INA (8 U.S.C. 1182(d)5)) [*parole status*].

7 Threat to life or freedom under ¶243(h) of INA. A noncitizen who is lawfully present in the U.S. as a result of the Attorney General's withholding deportation under ¶243(h) of the INA (8 U.S.C. 1253(h)) [*threat to life or freedom*].

8 Amnesty under ¶245A of INA. A noncitizen lawfully admitted for temporary or permanent residence under ¶245A of the INA (8 U.S.C. 1255a) [*amnesty granted under INA 245A*].

Instructions to Housing Authority: Following verification of status claimed by persons declaring eligible immigration status (other than for noncitizens age 62 or older and receiving assistance on June 19, 1995), the PHA must enter USCIS/SAVE Verification Number and date that it was obtained. A PHA signature is not required.

Instructions to Family Member For Completing Form: On opposite page, print or type first name, middle initial(s) and last name. Place an "X" or "√" in the appropriate boxes. Sign and date at bottom of page. Place an "X" or "√" in the box below the signature if the signature is by the adult residing in the unit who is responsible for child.

Verification Consent Form

CONSENT: I consent to allow the _____(name of PHA)_____ (PHA) to request and to obtain information from U.S. Citizenship and Immigration Services (USCIS) for the purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs. I understand that the PHA cannot use it to delay, deny or terminate housing assistance because of the immigration status of a family member except as provided in this Guidebook. In addition, I understand I must be given an opportunity to contest the determination with the USCIS or the PHA, or both.

Signatures:

ADULT:

Head of Household	A- Alien Number	Date	Family Member Age 18 or over	A- Alien Number	Date
Spouse	A- Alien Number	Date	Family Member Age 18 or over	A- Alien Number	Date
Family Member Age 18 or over	A- Alien Number	Date	Family Member Age 18 or over	A- Alien Number	Date
Family Member Age 18 or over	A- Alien Number	Date	Family Member Age 18 or over	A- Alien Number	Date

CHILD:

Family Member Age Under 18	A- Alien Number	Signature of Adult Residing in Unit Responsible for Child	A- Alien Number[1]	Date
Family Member Age Under 18	A- Alien Number	Signature of Adult Residing in Unit Responsible for Child	A- Alien Number[1]	Date
Family Member Age Under 18	A- Alien Number	Signature of Adult Residing in Unit Responsible for Child	A- Alien Number[1]	Date
Family Member Age Under 18	A- Alien Number	Signature of Adult Residing in Unit Responsible for Child	A- Alien Number[1]	Date

1. If citizenship declared by adult, leave blank.

Who must sign: In order to be eligible to receive housing assistance, each noncitizen adult or child applying for, or currently receiving, housing assistance must be lawfully within the U.S. Please read the Verification Consent Form carefully and sign and return to the Housing Authority's Admissions Office. Please feel free to consult with an immigration lawyer or other immigration expert of your choosing.

Privacy Act Statement:

The information on this form is being collected by the _____(name of PHA)_____ to determine the applicant's or tenant's eligibility for housing assistance. The PHA may release this information, without responsibility for the further use or transmission of the evidence by the entity receiving it to: (1) the Department of Housing and Urban Development (HUD), as required by HUD; and (2) to U.S. Citizenship and Immigration Services (USCIS) for purposes of verification of the immigration status of each individual and not for any other purpose.

Penalties for Misusing this Consent:

HUD, the PHA and any owner (or any employee of HUD, the PHA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based n the consent form.

Use of the information collected on this consent form is restricted to the purposes cited on the form. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than $5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the PHA or the owner responsible for the unauthorized disclosure or improper use.

Listing of Noncontending Family Members

I, _____ certify, under penalty of perjury,[1] that the persons listed below are members of my household. Each person listed below has elected not to contend that he or she has eligible immigration status.

_____
(First Name, Middle Initial(s), Last Name)

_____
(First Name, Middle Initial(s), Last Name)

_____
(First Name, Middle Initial(s), Last Name)

_____
(First Name, Middle Initial(s), Last Name)

_____ _____
(Signature of Head of Household or Spouse) (Date)

[1] **Warning:** 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000, imprisoned for not more than five years, or both.

Instructions: If one or more members of a family elect not to contend that he or she has eligible immigration status and the other members of the family establish their citizenship or eligible immigration status, the family may be considered for assistance despite the fact that no declaration or documentation of eligible immigration status is submitted by one or more members of the family. The family, however, must identify to the PHA the family member(s) who will elect not to contend that he or she has eligible immigration status. In the space(s) provided above, type or print the names of the family members who elect not to contend that he or she has eligible immigration status. Listed members of the family do not sign above. However, the Head of Household or Spouse must sign and date the form in the space provided.

POP QUIZ

- Is this Declaration 214 acceptable? Why or why not?

HDA
EQUAL HOUSING OPPORTUNITY

HOUSING DEVELOPMENT AUTHORITY

DECLARATION OF SECTION 214 STATUS

This form is required by P.A. 346 of 1966, as amended, and Section 8 of the U.S. Housing Act of 1937. Failure to file could affect benefits.

Notice to applicants and tenants: In order to be eligible to receive the housing assistance sought, each applicant for, or recipient of, housing assistance must be lawfully within the U.S. Read the Declaration statement carefully then sign and return to the address below. Please feel free to consult with an immigration lawyer or other immigration expert of your choosing.

I certify, under penalty of perjury, that, to the best of my knowledge, I am lawfully within the United States because (check the appropriate box, check only one):

1. ☒ I am a citizen by birth, a naturalized citizen or a national of the United States; or
2. ☐ I have eligible immigration status and I am 62 years of age or older. Attach evidence of proof of age (i.e. copy of Driver's license, birth certificate, state identification), see instruction #1; or
3. ☐ I have eligible immigration status as checked below (see reverse side of this form for explanations). Attach U.S. Citizenship and Immigration Services (USCIS) (formerly INS) document(s) evidencing eligible immigration status and signed verification consent form.
   - a. ☐ Immigrant status under § 101(a)(15) or 101(a)(20) of the Immigration and Nationality Act (INA), see instruction #2; or
   - b. ☐ Permanent residence under §249 of INA, see instruction #3; or
   - c. ☐ Refugee, asylum, or conditional entry status under §207, 208, or 203 of the INA, see instruction #4; or
   - d. ☐ Parole status under §212(d)(5) of the INA, see instruction #5; or
   - e. ☐ Threat to life or freedom under §243(h) of the INA, see instruction #6; or
   - f. ☐ Amnesty under §245A of the INA, see instruction #7.

NOTE: For family members with different citizenship status, complete a separate form for each citizenship status.

List all Family Members:

Parent or Guardian must sign their own name for family member(s) under 18 years of age. (DO NOT sign child's name)

First, Middle Initial, Last Name	Signature	Date
Charity Dione (Head of Household)	Charity Dione	
	I live alone	

Learning Activity 3-2: Social Security/Noncitizens

- The Martinez family is applying for assistance.

Relation	Name	Age	Citizenship Status	SSN
Head	Alberto Martinez	36	Ineligible Noncitizen	Does not have one
Spouse	Maria Martinez	35	Ineligible Noncitizen	Does not have one
Son	Juan Martinez	8	Eligible Citizen	238-44-2342
Daughter	Elsa Martinez	5	Eligible Citizen	445-23-2584
Other Adult	Laura Alvarez	34	Eligible Noncitizen	239-32-2353
Other Adult	Inez Martinez	63	Eligible Noncitizen	325-33-2234

1. Does this family qualify for the program under the noncitizens rule?
   a. Yes, because at least one member meets the requirement under Section 214
   b. No, because neither the head nor spouse are citizens or eligible immigrants
   c. No, because only the children are citizens
   d. Yes, because there is one adult in the family that meets the requirement under Section 214

2. What documentation of Social Security Numbers and citizenship status would the PHA need to have in file for each household member?

3. Which family members are eligible for the program under the noncitizens rule?
   a. Juan and Elsa
   b. Inez and Laura
   c. No one
   d. Juan, Elsa, Laura, Inez

4. Elsa has lived with the family since birth. If the family refused to disclose Elsa's SSN, what action may the PHA take?
   a. The PHA may deny assistance
   b. The PHA must deny them assistance
   c. The PHA has no authority to require Elsa to disclose her SSN
   d. The PHA may subpoena the Social Security Administration to obtain information

5. What must the PHA do if Inez has not provided documentation of her SSN?
   a. Admit the family and require the documentation within 60 days
   b. Inez does not have to provide documentation of her SSN because she is elderly
   c. The family cannot be admitted until the documentation is provided
   d. Inez can sign a certification to document her SSN

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Section 3.4 Income Limits

INCOME LIMITS AT ADMISSION

1937 Housing Act

- HUD establishes income limits annually by family size for the area in which the PHA is located:
  - Extremely low-income limit: higher of 30 percent of area median income or the federal poverty level
  - Very low income-limit: 50 percent of area median
  - Low income-limit: 80 percent of area median.

CFR 982.201(a & b)

- An eligible household's income must not exceed the applicable income limit as set by HUD.
- The PHA may set the income-limit at 80 percent of median income if it is in the administrative plan.
  - PHA-specified criteria.
  - The PHA must use the 80 percent income limit for admission of VASH families
- If the PHA does not specify another limit, annual income must not exceed the very low-income limit to qualify.

CFR 982.201(b)(1)

- To be income-eligible, the applicant must be a family in any of the following categories:
  - A very low-income family
  - A low-income family:
    - Continuously assisted under the 1937 Housing Act
    - That meets additional eligibility criteria specified in the PHA administrative plan. The criteria must be consistent with the PHA plan and with the consolidated plan in the PHA jurisdiction

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  - That qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 or HOPE 2 project
  - That qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.
- A low income or moderate-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing.

CFR 982.201(d)

- An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.
- PHAs must establish policy as to when, and to what extent, brief interruptions between assistance and admission to the voucher program will be considered to break continuity of assistance under the 1937 Housing Act.

Industry Practice

- Income limits are established by family size, so a change in family composition while on the waiting list may affect the family's eligibility for admission. Applicants on the waiting list who have an increase in income above the limits may not be admitted.
- Annual income is compared to the income limit and is applied as a test for initial eligibility.

HB 7420.7, 10-2 (c)(2)(a)

- Once a family is admitted (leased), it is no longer subject to initial income limits in order to retain eligibility.
- The PHA may not establish minimum income requirements. Otherwise eligible zero income families are eligible for the program.

APPLICABLE INCOME LIMITS

CFR 982.201(b)(4)

- For voucher issuance (eligibility), PHAs with more than one income-limit area must use the highest income limit in its jurisdiction.

CFR 982.353(d)

- For program admission, a family must be income-eligible in the area where they initially lease a unit with program assistance.

CFR 982.201(b)(4)
CFR 982.353(d)

  - The applicable income limit for admission to the program is the income limit for the area where the family is initially assisted in the program.

CFR 982.201(b)(4)
CFR 982.353(d)

  - The family may only use the voucher to rent a unit in an area where the family is income-eligible at admission to the program.

Learning Activity 3-3: Income Limits

- Using the tables below, answer the questions about the Frasier and Perry families that follow. The (family of 2) Frasier family's total annual income is $32,155. The (family of 4) Perry family's total annual income is $0. The PHA has two income limit areas. Both are shown below.

Area A

Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Very Low (50%) Income Limit	$28,150	$32,150	$36,150	$40,150	$43,400	$46,600	$49,800	$53,000
Extremely Low (30%) Income Limits	$16,000	$19,300	$21,700	$24,100	$26,050	$28,000	$29,900	$31,850
Low (80%) Income Limits	$45,000	$51,400	$57,850	$64,250	$69,400	$74,550	$79,000	$84,850

Area B

Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Very Low (50%) Income Limits	$29,550	$33,750	$37,950	$42,150	$45,550	$48,900	$52,300	$55,650
Extremely Low (30%) Income Limits	$17,750	$20,250	$22,800	$25,300	$27,350	$29,350	$31,400	$33,400
Low (80%) Income Limits	$47,250	$54,000	$60,750	$67,450	$72,850	$78,250	$83,650	$89,050

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- The PHA has two income limit areas in its jurisdiction. The PHA uses the very low-income limit of 50 percent of area median income.

  1. Is the Frasier family income-eligible for the PHA's HCV program?

     _____

  2. May the Frasier family lease up anywhere in the PHA's jurisdiction?

     _____

  3. Is the Perry family income-eligible for the PHA's HCV program?

     _____

  4. May the Perry family lease up anywhere in the PHA jurisdiction?

     _____

  5. Bonus question: May a PHA set a minimum income for families for eligibility purposes?

     _____

ELIGIBILITY OF COLLEGE STUDENTS

BACKGROUND

- Congress has imposed restrictions on housing assistance to students (affects HCV only, not public housing).
- HUD has determined that the rule does not apply to students residing with their parents receiving or applying for HCV assistance.

RESTRICTIONS ON ASSISTANCE

CFR 5.612

- *No assistance* will be provided to any individual who is enrolled (full-time or part-time) as a student at an institution of higher education who is:
  - Under 24
  - Not a U.S. veteran
  - Unmarried
  - Not a student with disabilities who was receiving HCV assistance as of 11/30/05
  - Does not have a dependent child, unless:
    - The student is eligible, and the student's parents (individually or jointly) are income-eligible for the program.
- In other words, students and parents both have to be income-eligible unless the student can demonstrate absence or independence from their parents.

Student Rule Q&A

  - The student's parents must be eligible under the low-income limit (80 percent of AMI) for the parent's family size for the locality where the parents live.

FR Notice 4/10/06
FR Notice 9/21/16

- The PHA's administrative plan must define situations where the parents' income will not be used for purposes of program eligibility. The criteria may include, but is not limited to:
  - Student must be of legal contract age per state law.
  - Student must have established separate household for at least 1 year or must meet Dept. of Education definition of "independent student."
    - *Independent student:* a student must meet one or more of the following criteria:
      - At least 24 years old by December 31 of the award year for which the aid is sought
      - Be an orphan, in foster care, or ward of court, or have been an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
      - Be or have been immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
      - Be a veteran of the U.S. Armed Forces or currently serving on active duty in the Armed Forces for other than training purposes
      - Be a graduate or professional student
      - Be married
      - Have has one or more legal dependents other than a spouse (e.g., dependent children or an elderly dependent parent)

- Have been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
  - A financial aid administrator
- Be a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

- Student must not be claimed as a dependent on another person's tax return
- Student must obtain parental certification of the amount of support that will be provided by parents (including if no financial assistance will be provided)

• If the PHA determines that an individual meets the definition of a *vulnerable youth*, such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

- A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16, specifically:
  - Being an orphan, in foster care, or a ward of the court, or having been an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
  - Being or having been immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
  - Having 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 or designee of the director of a program funded under the McKinney-Vento Act, or a financial aid administrator.

Student Rule Q&A

- For purposes of income eligibility, both students and parents must meet the (80 percent) low-income limit. The PHA will have to determine the eligibility of each student family member, parent (in cases when the student has not established independence), and the student family household as a unit.

CFR 982.552 (b)(5)

- The PHA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

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Learning Activity 3-4: Student Rule

- The Frasier family consists of head of household, Jamie Frasier (age 48) and his wife Claire (age 51). Claire is a full-time student.

  1. Are they eligible?
     a. Yes
     b. No
  2. Why or why not?

- Six months after the Frasier family is admitted to the program, they request to add their friend Roger to their unit. The landlord approves the addition. PHA policy on who may be added to the unit after a family is admitted to the program would also permit the family to add him. Roger is 19, single, not a veteran, and has no children. Both of his parents have passed away. He has a full-time job where he earns $48,000 per year. He does not go to school.

  3. If Roger's income is added, the Frasier family's total annual income would be over the three-person income limit. Assuming he is otherwise eligible, may Roger be added? Why or why not?

- A year later, Claire and Jamie move out. Roger is the sole remaining family member. Roger informs the PHA that he has become a part-time student. He still works full-time and earns $48,000 a year. Assuming no other changes with Roger, use the income limit tables in Learning Activity 3-3 on page 3-31 to answer the following questions:

  4. Does the student rule apply to Roger? Why or why not?

  5. Is Roger income-eligible for the program at this point?

  6. What action must the PHA take at this point?

Section 3.5 Denial of Assistance

DEFINITIONS

CFR 5.100
CFR 5.902
CFR 5.902

- ***Adult:*** a person 18 years of age or older or who has been convicted of a crime as an adult under any federal, state, or tribal law.
- ***Covered housing:*** it includes HCV tenant-based assistance.
- ***Covered person:*** the tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- ***Drug:*** a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- ***Drug-related criminal activity:*** the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.
- ***Guest:*** a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- ***Household:*** the family and any PHA-approved live-in aide.
- ***Law enforcement agency:*** the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records.
- ***Minor:*** a member of the family, other than the head of family or spouse, who is under 18 years of age.

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- ***Other person under the tenant's control:*** 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 tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
  - The person is a short-term invitee not "staying" in the unit.
  - The person is only 'under the tenant's control' during the period of the invitation.
  - A person on the premises for legitimate commercial purposes isn't 'under the tenant's control' unless there is evidence to suggest otherwise.
- ***Responsible entity:*** a PHA administering an HCV program under an annual contributions contract with HUD.
- ***Violent criminal activity:*** 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.

GENERAL

CFR 982.301(b)(13), (14) & (15)
CFR 982.552(d)

- The PHA must give the family a written description of:
  - Family obligations under the program
  - Grounds on which the PHA may deny assistance because of family action or failure to act
  - The PHA informal review and hearing procedures.
- Denial of assistance for an applicant may include:

CFR 982.552(a)

  - Denying listing on waiting list
  - Denying or withdrawing a Voucher
  - Refusing to enter into a HAP contract or to approve a lease
  - Refusing to process or provide portability.

PROHIBITED ADMISSION CRITERIA

CFR 982.202(b)(1)

- Admission cannot be based on where the family lives before admission to the program.

CFR 982.202(b)(2)

- Admission cannot be based on where the family will live with assistance under the program.

CFR 982.202(b)(3)

- Admission cannot be based on:
  - Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
  - Discrimination because a family includes children
  - Discrimination because of age, race, color, religion, sex, or national origin
  - Discrimination because of disability or a specific disability
  - The family's willingness to participate in a family self-sufficiency program.

CFR 5.903
CFR 5.905

OPPORTUNITY TO DISPUTE

- If a PHA intends to deny based on criminal record information or sex offender registration information, the PHA must:
  - Notify the household of the proposed action to be based on the information
  - Provide the applicant and subject of the record with
    - A copy of the information
    - An opportunity to dispute the accuracy and relevancy of the information.

RECORDS MANAGEMENT

- The PHA must establish and implement a system of records management ensuring that any criminal record received from a law enforcement agency under CFR 5.903, or sex offender registration information received from a state or local agency under CFR 5.905 is:
  - Maintained confidentially
  - Not misused or improperly disseminated
  - Destroyed, once the purpose for which the record was requested has been accomplished
    - Including expiration of the period for filing a challenge to the PHA.
- The records management requirements do not apply to sexual offender registration information that is public information or is obtained by a PHA other than under CFR 5.905.

CFR 982.553

CRIME BY FAMILY MEMBERS

Requirements to Deny

- The PHA must prohibit admission for three years from date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity:
  - However, PHA may admit if the PHA determines:
    - The member successfully completed a PHA approved, supervised drug rehabilitation program; or
    - The circumstances leading to the eviction no longer exist (i.e., offending member died, or is imprisoned).

- The PHA's standards must prohibit admission if:

Notice PIH 2012-28

  - Any member of the household is subject to a lifetime state sex offender registration program requirement
    - PHA must conduct criminal history background checks for sex offender registration requirement in the state where the housing is located and in other states where household members are known to have resided.

HUD FAQs on Notice PIH 2012-28

    - Note: PHAs may only create policies that permanently deny admission to sex offenders subject to lifetime registration requirements as per the regulatory requirements and may not implement policies that automatically deny admission to applicants for the duration of their sex offender registration requirement, regardless of circumstances, if it is less than life.
  - Notice PIH 2012-28 specifies how this requirement can be fulfilled. Whichever method the PHA chooses must be included in the administration plan.
    - Should the process reveal an applicant's household includes an individual subject to a state lifetime registered sex offender registration, the PHA must offer the family an opportunity to remove that individual from the household.
  - The PHA determines it has reasonable cause to believe that the health, safety, or right to peaceful enjoyment of the premises by other residents may be threatened by a household member's
    - Abuse or pattern of abuse of alcohol, or
    - Illegal drug use or pattern of illegal drug use
  - The PHA determines that any household member is currently engaging in illegal use of a drug.
  - 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.

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REQUIREMENTS TO DENY ASSISTANCE

CFR 982.201
CFR 5.218
CFR 5.232
CFR 5.514
CFR 982.552

- The PHA must deny admission to the program for an applicant:
  - If SSN disclosure requirements are not met
  - If any family member fails to sign and submit required consent forms
    - This does not apply if applicants or participants or their family members revoke their consent for the PHA to access financial records unless the PHA has established a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.
  - If no family member establishes citizenship or eligible immigration status

CFR 982.552(b)(5)

- The PHA must deny assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- 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 an amount that is adjusted annually by HUD. For 2027, the amount is $109,797.
  - 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.

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- 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;
  - 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;
  - Is located so as to be a hardship to the family (e.g., the location would be a hardship for the family's commute to work or school:'
  - Is unsafe because of physical condition;
  - Is not a property that a family may reside in per local and state laws (e.g., a storefront zoned for commercial use only).

- The PHA may determine compliance based on a self-certification by a family that the family does not have any present ownership interest in any real property at the time of the income determination or review.

Authority to Deny Assistance

CFR 982.553(a)(2)(ii)

- The PHA may prohibit admission if the PHA determines that any household member is currently engaged in (meaning recently enough to justify a belief the behavior is current), or has engaged in during a reasonable time (defined by PHA policy) before admission:
  - Drug-related criminal activity
  - Violent criminal activity
  - Other criminal activity which may threaten
    - the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
    - the health or safety of the owner, property management staff, or persons performing a contract administration function/responsibility on behalf of the PHA.
- The PHA may reconsider a previous denial for criminal activity if the PHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in said criminal activity for a reasonable time as defined by the PHA, before the admission decision.
  - A certification of the above by the household member would be considered sufficient evidence if supporting information from other sources (probation officer, landlord, neighbors, social service agency workers, and criminal records) was also provided and verified.

AUTHORITY TO DENY ASSISTANCE

CFR 982.552

- The PHA may deny assistance in accordance with PHA policy based on applicant screening for family behavior or suitability for tenancy.
- The PHA may deny program assistance for any of the following grounds:
  - The family violates any family obligation under the program
  - If any family member has been evicted from federally assisted housing in the last five years
  - If a PHA has ever terminated assistance under the program for any family member
  - If any family member committed fraud, bribery, or another corrupt or criminal act regarding any federal housing program
  - If the family currently owes rent or other amounts to any PHA in connection with HCV or public housing assistance; including
    - Not having reimbursed any PHA for amounts paid to an owner on behalf of the family, or
    - Breaching a repayment agreement with the PHA
    - PHAs are required to provide applicants the "Debts Owed to Public Housing Agencies and Terminations" for
      - Each adult household member must sign the form
  - If the family has engaged in or threatened abusive or violent behavior toward PHA personnel
  - If a welfare-to-work (WTW) family fails, willfully and persistently, to fulfill obligations under the WTW program

24 CFR 984.101(d)

- Note that PHAs are not allowed to withhold assistance for failure to comply with the obligations of the Family Self-Sufficiency (FSS) contract of participation.

EIV REPORTS

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

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CONSIDERATION OF CIRCUMSTANCES

- Denial and termination decisions are subject to reasonable accommodation considerations for persons with disabilities.
- When deciding whether to deny assistance because of action or failure to act by members of the family, the PHA may consider:
  - The seriousness of the case
  - The extent of participation/culpability of family members
  - Mitigating circumstances relating to a family member's disability
  - The effects of denial/termination of assistance on other family members who were not involved in the action or failure to act.
- The PHA may impose a requirement that family members who participated in or were culpable for the action or failure not reside in the unit.
- For denial/termination decisions based on illegal use of drugs or alcohol abuse by a household member no longer engaged in such behavior, the PHA consider whether the household member
  - Is participating in,
  - Has successfully completed a supervised drug or alcohol rehabilitation program, or
  - Has otherwise been successfully rehabilitated.
    - The PHA may require evidence of successful rehabilitation

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DENIALS STUDY CHART

Mandatory	Discretionary
SSN disclosure requirements not met (except for noncontending individuals and those under six who have joined the participant family within the past six months and within six months of admission for applicant families)	Any household member is currently engaging in, or has engaged in, within a reasonable time before admission, drug-related criminal activity, violent criminal activity, or other criminal activity which threatens other residents or staff
Failure to sign required consent forms	Family violates any family obligations
Family member does not establish citizenship or eligible immigration status (other than noncontending individuals)	Any PHA has ever terminated the assistance of any family member
Fails to meet student rule requirements	Family commits fraud, bribery, or another corrupt or criminal act regarding a federal housing program
Convicted of manufacture of methamphetamine on the premises of federally assisted housing	Currently owes rent or other amounts to any PHA
Evicted from federally assisted housing for drug related criminal activity in the last three years	Family has engaged in or threatened violent or abusive behavior towards PHA personnel
Currently engaging in the use of an illegal drug	Eviction from federally assisted housing in the past five years
Abuse or pattern of abuse of alcohol or illegal drugs that threatens health, safety, or right to peaceful enjoyment	
Subject to a lifetime sex offender registration requirement	
Failure to meet asset limitation requirements	

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INFORMAL REVIEWS

CFR 982.554

- PHAs must give applicants prompt notice of a decision denying assistance. The notice must:
  - Contain a statement of the reasons for the decision
  - State that the applicant may request an informal review
  - Describe how to obtain the informal review.
- Reviews are required for decisions denying assistance.
  - The review may be conducted by any PHA designated person, other than the person who made or approved the decision or their subordinate.
  - The applicant must be given an opportunity to present oral or written objections to the PHA's decision.
  - After the informal review, the PHA must notify the applicant of the final decision, including reasons for the decision.
- Reviews are not required for:
  - Discretionary administrative determinations
  - General policy issues or class grievances
  - Determination of family unit size under PHA subsidy standards
  - Determination not to approve an extension of the voucher term
  - Determination not to grant approval of the tenancy
  - Determination that the selected unit is not in compliance with NSPIRE, including because of family size or composition

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Learning Activity 3-5: Eligibility Knowledge Check

1. Applicants must disclose and document Social Security numbers for:
   a. All family members age six or over
   b. All household members except noncontending persons, and children under age six if they joined the family within six months of voucher issuance
   c. All household members except noncontending or elderly persons
2. Which of the following are ineligible for assistance?
   a. Citizens of the USA
   b. Nationals of the USA
   c. Noncitizen students on a student visa
3. The PHA determines (in the administrative plan) the definition of:
   a. An elderly family
   b. A displaced family
   c. A disabled family
   d. None of the above
4. Which of the following qualify as a "disabled family"?
   a. 51-year-old head with disabled daughter
   b. Retired couple under 62 years of age with no children
   c. 28-year-old head who is receiving SSI
   d. None of the above
5. A mixed family, for purposes of the noncitizens rule, includes:
   a. Family members of different races
   b. Family members of different nationalities
   c. Some citizens and some eligible noncitizens
   d. Some eligible members and some ineligible members

6. To be eligible, a family must:
   a. Be within the income limit
   b. Be within the asset limit
   c. Have children or be elderly
   d. Be U.S. citizens
   e. Both a and b
7. The income limit set at 50 percent of the median income for the area, as determined by HUD, is called the:
   a. Low-income limit
   b. Very low-income limit
   c. Extremely low-income limit
8. Applicants receiving veterans disability benefits automatically qualify as disabled under HUD's definition.
   a. True
   b. False
9. If a person states that they have a disability, the PHA may inquire:
   a. Whether the disability meets the threshold for HUD's definition of disability
   b. About the nature of the disability
   c. About the extent of the disability
   d. Whether the individual can live independently
10. Live-in aides are considered household members, but they are not considered family members.
    a. True
    b. False
11. After a family is admitted to the Housing Choice Voucher program, it:
    a. Must stay within the PHA's income limit
    b. Is no longer subject to the income limits
    c. Must stay within the low-income limit
    d. Is only subject to the income limits at annual reexam

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12. Which of the following family types would have their subsidy prorated?
    a. All members are citizens or eligible immigrants
    b. Some members are citizens or eligible immigrants, and some are ineligible immigrants
    c. All members are ineligible immigrants
    d. All members are noncontending family members
13. If a PHA's jurisdiction contains more than one income limit area, the applicable income limit for issuance of a voucher is:
    a. The highest limit for the jurisdiction
    b. The limit in the area where a family wants to live
    c. The lowest limit in the PHA's jurisdiction
    d. None of the above
14. Define *elderly family* below.

15. What are two types of documentation that could be provided as evidence of a Social Security number.

16. If the only family member who has eligible citizenship or immigration status is a minor child, is the family still eligible for prorated assistance?
    a. Yes
    b. No
17. PHAs may establish a policy in the administrative plan to not enforce the asset limitation on applicants.
    a. True
    b. False
18. When a family member is 62 or older and declares they are an eligible noncitizen, the PHA is required to obtain proof of their age and third-party verification of their immigration status.
    a. True
    b. False
19. The student rule does not apply to students residing with their parents.
    a. True
    b. False
20. May Smith (age 22) is applying for HCV assistance as head of household. She has a daughter. She attends school at the local community college full-time. The PHA will not review her parents' income under the student rule since she has a dependent child.
    a. True
    b. False

21. The PHA is proposing to deny admission to Harry Hanks based on information found during a criminal record search. What must the PHA do before denying admission?

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Section 3.6 NMA Continued Learning

DEFINITIONS RELATED TO CITIZENSHIP STATUS

- *Child:* A member of the family other than the family head or spouse who is under 18 years of age.
- *Citizen*: Citizen/national of the United States.
- *Evidence of citizenship or eligible immigration status*: The documents which must be submitted to establish citizenship or eligible immigration status.
- *Head of Household:* The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.
- *Mixed family*: A family including citizens or eligible immigrants, and members without citizenship or eligible immigration status.
- *National*: A person who owes permanent allegiance to the United States.
- *Noncitizen*: A person who is neither a citizen nor a national of the United States.
- *Spouse:* The marriage partner, either a husband or wife, who must be divorced to dissolve the relationship. Includes common law marriages, but not boy/girl friends, significant others, or co-heads.

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PROCEDURES AFTER VERIFICATION OF FAMILY STATUS

CFR 5.516(a)(2)(i)

FAMILIES ADMITTED *AFTER* 6/19/95

- Eligible families are admitted with full subsidy.
- Mixed families are eligible for prorated assistance.
- Ineligible families are denied assistance or assistance is terminated.

FAMILIES ASSISTED *AS OF* 6-19-95

- The protections afforded these families relates to whether the PHA implemented the noncitizens rule before or after 11/29/96.[1]
- Families assisted when the noncitizen rule was implemented may have been eligible for full continued assistance.
  - For more information refer to HUD Guidebook 7465.7, Restrictions on Assistance to Noncitizens, Chapter 10, dated July 1995.

1. On this date, a change in the rule was published and effective. Families who had been provided certain protections prior to that date were not affected, but after that date any other families receiving benefits would be considered under the new rule.

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PHA Access to Criminal Records and Information

Introduction

- The Screening and Eviction Rule, Effective June 25, 2001, provided PHAs with tools for adopting and implementing effective policies to screen out HCV program applicants who engage in illegal drug use or other criminal activity.
  - The rule also provided tools to terminate or evict public housing residents and project-based HCV residents.
- Although requiring denial of program admission for specific criminal activity, the rule did not restrict program denial solely to the reasons cited in the rule.
  - PHAs may deny admission for criminal activity other than that specified in the rule.
- The Screening and Eviction Rule authorized PHAs to obtain criminal conviction records from law enforcement agencies.
  - Many PHAs used other means of obtaining criminal records prior to the Screening and Eviction Rule.
    - PHAs may continue to use these other means to which the regulatory requirements (Subpart J of 24 CFR, Part 5) addressing access to criminal records does not apply.
  - The regulatory requirements only apply to criminal records obtained by the authority given PHAs in the regulations.
  - Therefore, the regulations at Subpart J of 24 CFR, Part 5, do not apply to criminal conviction or sex offender information obtained other than under the authority of that subpart.
    - PHAs should handle any confidential information obtained in accordance with applicable state and federal privacy laws and with signed consent form provisions.

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- The authority granted PHAs to obtain criminal records under the Screening and Eviction Rule does not extend to obtaining criminal records for Housing Choice Voucher participants.

CFR 5.903

SPECIAL AUTHORITY TO OBTAIN ACCESS TO CRIMINAL RECORDS

- The regulations at 24 CFR 5.903 authorize PHAs to obtain criminal conviction records from a law enforcement agency to screen applicants for program admission.
  - The PHA must require every applicant family to submit a consent form signed by each adult household member. By signing the form, the household member consents that:
    - Any law enforcement agency may release criminal conviction records concerning the household member to a PHA
    - The PHA may receive the criminal conviction records and use in accordance with the regulations.
- The regulations require the law enforcement agency to, upon receipt of the signed consent form, promptly release to the PHA a certified copy of any of the household member's criminal conviction records in their possession.
  - NCIC records must be provided in accordance with NCIC procedures.
  - The law enforcement agency may charge the PHA a reasonable fee for releasing criminal conviction records. The PHA may not charge a fee to the family.

- A PHA may only disclose the criminal information received under these regulations to officers or employees of the PHA, or authorized representatives of the PHA with a job-related need to the information.
  - Conviction for a misdemeanor and a penalty of not more than $5,000 may be the consequences paid by any person, (including an officer, employee, or authorized representative of any PHA), who knowingly and willfully.
    - Requests or obtains any information concerning an applicant for housing assistance under false pretenses, or
    - Discloses any such information to any individual not entitled under law to receive the information.
  - A PHA may be held liable to any applicant affected by:
    - Negligent or knowing disclosure of criminal record information obtained under the authority in the regulations if the disclosure is not authorized in the regulations, or
    - Any other negligent or knowing action inconsistent with the regulations.
  - An applicant may seek relief against a PHA by bringing a civil action for damages and other relief as may be appropriate against the PHA responsible for such unauthorized action.

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Notes

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CHAPTER 4 Voucher Issuance

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Describe and explain the process of voucher issuance
  - Determine how PHAs establish subsidy standards and how they affect voucher size
  - Discuss mandatory and optional practices for voucher issuance, extensions, and suspensions
  - Identify the required and optional components of the oral briefing and briefing packet

Section 4.1 Introduction

CFR 982.302(a)

- The voucher, form HUD-52646, is the family's authorization to search for an eligible unit and specifies the size of the unit.

CFR 982.302(a)

- The voucher is issued after the family has been certified eligible and briefed on program requirements or when the participant family wishes to move to another unit with continued tenant-based assistance.

Form HUD-52646

- The voucher lists family obligations.

CFR 982.4

- The voucher describes the program and the procedures for PHA approval of a unit selected by the family.

Form HUD-52646

- Issuance of a voucher does not obligate the PHA to approve a tenancy.

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Section 4.2 Subsidy Standards

CFR 982.54(d)(9)
CFR 982.402(a)(1)

- Each PHA must establish subsidy standards in its administrative plan.

CFR 982.4

- The subsidy standard is the criteria established by the PHA for determining the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

CFR 982.402(a)(3)

- The appropriate unit size for a family must be listed on the family's voucher.
- The subsidy standard must:
  - *CFR 982.402(b)(1)* Provide for the smallest number of bedrooms needed to house the family without overcrowding
  - *CFR 982.402(b)(2)* Comply with space requirements
  - *CFR 982.402(b)(3)* Be applied consistently for all families of the same size and composition.

CFR 982.402(b)(8)

- If circumstances are justified, the PHA may grant an exception based on:
  - Age
  - Sex
  - Health
  - Disability
  - Relationship of family members
  - Other personal circumstances

CFR 982.402(b)(7 & 8)

- A single person who is not a remaining family member, disabled or elderly must get only a zero or one-bedroom unit and is not eligible for an exception.

CFR 982.402(b)(4)

- A child temporarily absent because of placement in foster care is considered in determining family size.

CFR 982.402(b)(5)

- A family that consists of only a pregnant woman (with no other persons) must be treated as a two-person family.

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CFR 982.402(b)(6)

- Any live-in aide must be counted in determining unit size.

Notice PIH 2014-25

- Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. For this reason, PHAs should not approve an additional bedroom under these circumstances. However, a family's composition or circumstances may justify having an additional bedroom to allow disability-related overnight care and allow the family equal use and enjoyment of their unit.
  - PHAs must consider such requests for an exception to the established subsidy standards on a case-by-case basis, provide the exception where necessary as a reasonable accommodation, and document the justification for all granted exceptions.

UNIT SELECTED

- NSPIRE requires that for units assisted under the HCV program, the unit must have at least one bedroom or living/sleeping room for each two persons
- The unit must have two working outlets or one working outlet and a permanent light within all habitable rooms.
  - HUD defines a habitable room as it is typically defined in model codes: 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.

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ACTUAL UNIT SIZE SELECTION

CFR 982.402(d)(2)

- Families may select larger units than listed on their voucher.

CFR 982.402(d)(1)

- Families may select smaller units than listed on their voucher if the units selected have at least one bedroom or living/sleeping room for each two persons in the household.

CFR 982.517(d)

- The PHA must use the lower of the family's voucher bedroom size or the actual unit size when determining the applicable payment standard and utility allowance for the family.

Example 1
Table 1: Occupancy Range

Voucher size	3
Selected unit size	4
Applicable PS	3
Utility allowance	3

Example 2
Table 2: Occupancy Range

Voucher size	3
Selected unit size	2
Applicable PS	2
Utility allowance	2

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Learning Activity 4-1: Subsidy Standards

Using this sample PHA policy and relation code key below, answer the questions that follow. **Note**: Your PHA policy may differ from this sample.

PHA Policy
• The PHA will assign one bedroom for the head of household and/or spouse or cohead and an additional bedroom for each two persons within the household. • The live-in aide will get his/her own bedroom.

Relation Code Key:

H = Head
S = Spouse
K = Cohead
F = Foster child/Foster adult
Y = Other youth under 18
E = Full-time student 18+
L = Live-in aide
A = Other adult

Family Name	Relation	Age	Sex	Disability
Shelby Palmer	H	35	F	N
Patrick Palmer	Y	15	M	N
Rebecca Palmer	Y	14	F	N
Randy Palmer	Y	13	M	N
Julia Palmer	Y	10	F	N

1. What size voucher is the family entitled to?

2. The family leases up in a four-bedroom unit. What payment standard is used?

3. What utility allowance is used?

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Family Name	Relation	Age	Sex	Disability
John Achuff	H	35	M	N
Phyllis Achuff	K	62	F	N

4. What size voucher is the family entitled to?

5. What size voucher would they be entitled to if Phyllis was not the cohead?

Family Name	Relation	Age	Sex	Disability
Josh Naftel	H	39	M	N
Julia Naftel	S	37	F	N
Casey Naftel	Y	8	M	N
Randy Naftel	Y	6	M	N

6. What size voucher is the family entitled to?

7. If the family leased up in a one-bedroom unit with a living/sleeping room, would they be overcrowded?

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Section 4.3 General Procedures

HOUSING CHOICE VOUCHER ISSUANCE, EXTENSIONS AND EXPIRATIONS

CFR 982.303(a)
CFR 982.302(c)

- The initial term of the voucher must be at least 60 calendar days. The initial term must be stated on the voucher. The family must submit a request for approval of the tenancy and proposed lease within this initial period unless an extension is granted by the PHA.

CFR 982.303(d)

- At intervals determined by the PHA, the family may be required to submit a report on their progress in leasing a unit.

CFR 982.303(b)(1)

- PHA policy may allow for extending the voucher in one or more increments. Any extension of the term is granted by PHA notice to the family.

CFR 982.303(b)(2)

- If the family needs and requests an extension of the initial voucher term as a reasonable accommodation to make the program accessible for a person with a disability, the PHA must extend the term up to the term reasonably required for that purpose.

CFR 982.303(c)

- The PHA must provide for suspension (tolling) of the initial or any extended term of the voucher from the date the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

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FAMILY BRIEFING

CFR 982.301(a)(1)

- When the PHA selects a family to participate in a tenant-based program, the PHA must give the family an oral briefing.
- Briefings may be conducted in person or remotely, depending on PHA policy. See Notice PIH 2020-32 for the requirements regarding conducting remote oral briefings.
- The oral briefing must include information on the following subjects:

CFR 982.301(a)(1)(i)
- Description of how the program works

CFR 982.301(a)(1)(ii)
- Family and owner responsibilities

CFR 982.301(a)(1)(iii)
- Where the family may lease a unit, including areas outside the PHA's jurisdiction and any information on selecting a unit that HUD provides

CFR 982.301(a)(1)(iv)
- Explanation of how portability works

CFR 982.301(a)(1)(v)
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families

CFR 982.301(a)(2)

- The PHA may not discourage the family from choosing to live anywhere in the PHA's jurisdiction or outside the PHA's jurisdiction under portability procedures.
- The family must be informed of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.

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CFR 982.301(a)(3)

- The PHA must take appropriate steps to ensure effective communication in accordance with regulations for "Nondiscrimination Based on Handicap in Federally Assisted Programs" (CFR 8.6). and 28 CFR part 35, subpart E, and must provide information on the reasonable accommodation process. This applies to all families, not just a family that includes a person with disabilities. This applies to both in-person and remote briefings.

NMA Continued Learning: Briefings

Required Voucher Holder's Packet Items

CFR 982.301(b)

- When the PHA issues a voucher to a family for the first time, it also must give the family a packet that includes the following items required by HUD.

CFR 982.301(b)(1)

- Term of the voucher, voucher suspensions, and PHA policy on any extensions of the term.
  - If extensions are allowed, an explanation of how the family can request an extension.

CFR 982.301(b)(2)

- How the PHA determines HAP for the family, including:

CFR 982.301(b)(2)(i)

  - How the PHA determines the payment standard for the family.

CFR 982.301(b)(2)(ii)

  - How the PHA determines TTP.

CFR 982.301(b)(3)

- How the PHA determines maximum rent for an assisted unit.

CFR 982.301(b)(4)

- Where the family may lease a unit.
  - This includes an explanation of how portability works and how portability may affect the family's assistance through screening, subsidy standards, and any other elements of the portability process.

CFR 982.301(b)(5)

- HUD-required tenancy addendum, which must be included in the lease.

CFR 982.301(b)(6)

- Form that the family uses to request PHA approval of their assisted tenancy.
  - Explanation of how to request such approval.

CFR 982.301(b)(7)

- Statement of PHA policy on providing family information to prospective owners.

CFR 982.301(b)(8)

- PHA subsidy standards, including when the PHA will consider exceptions and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act.

CFR 982.301(b)(9)

- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.

CFR 982.301(b)(10)

- Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, and the Americans with Disabilities Act.

CFR 982.301(b)(11)

- List of landlords known to the PHA who may be willing to lease a unit or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit.
  - PHAs must ensure that the list of landlords or other resources covers areas outside of minority concentration.

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CFR 982.301(b)(12)

- A notice that if the family includes a person with disabilities, the PHA is subject to the requirement under 24 CFR 8.28(a)(3) to provide a current listing of accessible units known to the PHA and, if necessary, other assistance in locating an available accessible dwelling unit.

CFR 982.301(b)(13)

- Family obligations under the program.
  - Including any obligations of other special programs if the family is participating in one of those programs.

CFR 982.301(b)(14)

- The advantages of areas that do not have a high concentration of low-income families, which may include access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services.

CFR 982.301(b)(15)

- PHA informal hearing procedures.
  - These procedures must describe when the PHA is required to provide the opportunity for an informal hearing and how the family may request a hearing.

HCV Guidebook

- The HUD pamphlet on lead-based paint entitled "Protect Your Family from Lead in Your Home."

CFR 985.3(g)(3)(C)

- SEMAP regulations require PHAs with jurisdiction in metropolitan FMR areas to:
  - Have and use maps showing various areas with housing opportunities outside areas of concentration, both within its jurisdiction and in neighboring jurisdictions.
  - Use information about services in these areas in its briefings.

CFR 985.3(g)(3)(D)

  - Provide lists of owners willing to lease under the program, or organizations that operate outside clearly defined areas of poverty or minority concentration.

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OPTIONAL VOUCHER HOLDER'S PACKET ITEMS

HCV Guidebook

- Summary of items included in briefing packet.
- Brochures to explain the program to landlords.
- Form HUD-52641, HAP contract, for both the participant and owner to review.
- Description of the PHA's security deposit policy, if the PHA has one.
- Information on service organizations and utility companies.
- Requirements for notifying HUD or the PHA of any income or family composition changes during the search period.
- Information on the payment standard and the PHA utility allowance schedule.
- Explanation of rent reasonableness.
- List of known units available to rent.
- Explanation of special programs/services offered by PHA (i.e., FSS).
- Checklist of items to consider before signing a lease.
- Contact information for PHA staff/local social service agencies.
- List of items that commonly fail inspection.

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Section 4.4 Family Obligations

CFR 982.551 & 982.312 (d)(1)

- Family obligations are specified in the:
  - Federal Regulations

Voucher

  - Voucher (form HUD-52646) for the Rental Voucher Program, or

Lease

  - Lease and HUD tenancy addendum, executed between family and owner

WHAT THE FAMILY *MUST* DO

PROVIDE INFORMATION FORMS

CFR 982.551(b)(1)

- Supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status.
  - Information includes any requested certification, release, or other documentation.

CFR 982.551(b)(2)

- Supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

CFR 982.551(b)(3)

- Disclose and verify Social Security numbers and sign and submit consent forms for obtaining information.

CFR 982.551(b)(4)

- Supply true and complete information to the PHA.

UNIT RESPONSIBILITIES

CFR 982.551(c)
CFR 982.404(b)

- Be responsible for specific issues:
  - Failure to pay utilities for which the family is responsible
  - Failure to provide or maintain appliances for which the family is responsible
  - Damage to the unit (beyond normal wear and tear) by a household member or guest

CFR 982.551(d)

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

CFR 982.551(f)

- Notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner.

CFR 982.551(g)

- Promptly give the PHA a copy of any owner eviction notice.

CFR 982.551(h)(1)

- Use the assisted unit for residence by the family.
  - The unit must be the family's only residence.

CFR 982.551(h)(5)

- Engage in legal profit-making activities in the unit ***only*** if such activities are incidental to the primary use of the unit for residence by members of the family.

HOUSEHOLD COMPOSITION

CFR 982.551(h)(2)

- Have family composition approved by the PHA.

CFR 982.551(h)(2)

- Promptly inform the PHA of the birth, adoption, or court-awarded custody of a child.

CFR 982.551(h)(2)

- Request PHA approval to add any other family member as an occupant of the unit.

CFR 982.551(h)(3)

- Promptly notify the PHA if any family member no longer resides in the unit.

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CFR 982.551(h)(4)

- Get PHA approval before having a foster child or live-in aide reside in the unit.
  - The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or live-in aide and to define when PHA consent may be given or denied.

ABSENCE FROM THE UNIT

CFR 982.551(i)

- Supply any information or certification requested by the PHA to verify that the family is living in the unit or that the family is absent from the unit, including the purpose of such absences.
  - The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of the family absence from the unit, including any information requested on the purposes of family absences.

WHAT THE FAMILY MUST *NOT* DO

CFR 982.551(e)

- Commit any serious or repeated violation of the lease.

CFR 982.551(h)(6) & CFR 982.551(h)(7)

- Sublease or rent the unit or assign the lease or transfer the unit.

CFR 982.551(k)

- Commit fraud, bribery or any other corrupt or criminal act in connection with the program.

CFR 982.551(l) CFR 982.553(b)(i)

- Engage in drug-related criminal activity, 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.

CFR 982.551(m) CFR 982.553(b)(3)

- Abuse alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

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CFR 982.551(n)

- Receive HCV tenant-based assistance while receiving another housing subsidy, whether for the same unit or for a different unit, under any duplicative (as determined by HUD) federal, state, or local housing assistance program.

CFR 982.551(j)

- Own or have any interest in the unit (other than in a cooperative or a manufactured home leased in a manufactured home space).

CFR 982.306(d)

- Receive HCV tenant-based program housing assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.
  - This prohibition applies to leases executed after 6/16/98.

HUD-52646 VOUCHER - HOUSING CHOICE VOUCHER PROGRAM

Voucher

Housing Choice Voucher Program

U.S. Department of Housing and Urban Development

OMB No. 2577-0169
(exp. 04/30/2026)

Office of Public and Indian Housing

OMB Burden Statement: The public reporting burden for this information collection is estimated to be up to 0.05 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is required for participation in the housing choice voucher program. Assurances of confidentiality are not provided under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Privacy Act Statement. The Department of Housing and Urban Development (HUD) is authorized to collect the information on this form by 24 CFR § 982.302. The information is used to authorize a family to look for an eligible unit and specifies the size of the unit. The information also sets forth the family's obligations under the Housing Choice Voucher Program. The Personally Identifiable Information (PII) data collected on this form are not stored or retrieved within a system of record.

Please read **entire** document before completing form Fill in all blanks below. Type or print clearly.	Voucher Number
1. Insert **unit size** in number of bedrooms. (This is the number of bedrooms for which the Family qualifies, and is used in determining the amount of assistance to be paid on behalf of the Family to the owner.)	1. Unit Size
2. **Date Voucher Issued (mm/dd/yyyy)** Insert actual date the Voucher is issued to the Family.	2. Issue Date (mm/dd/yyyy)
3. **Date Voucher Expires (mm/dd/yyyy)** must be at least sixty days after date Voucher is issued. (See Section 6 of this form.)	3. Expiration Date (mm/dd/yyyy)
4. **Date Extension Expires** (if applicable)(mm/dd/yyyy) (See Section 6. of this form)	4. Date Extension Expires (mm/dd/yyyy)

5.Name of Family Representative	6. Signature of Family Representative	Date Signed (mm/dd/yyyy)
7.Name of Public Housing Agency (PHA)		
8.Name and Title of PHA Official	9. Signature of PHA Official	Date Signed (mm/dd/yyyy)

1. Housing Choice Voucher Program

A. The public housing agency (PHA) has determined that the above named family (item 5) is eligible to participate in the housing choice voucher program. Under this program, the family chooses a decent, safe and sanitary unit to live in. If the owner agrees to lease the unit to the family under the housing choice voucher program, and if the PHA approves the unit, the PHA will enter into a housing assistance payments (HAP) contract with the owner to make monthly payments to the owner to help the family pay the rent.

B. The PHA determines the amount of the monthly housing assistance payment to be paid to the owner. Generally, the monthly housing assistance payment by the PHA is the difference between the applicable payment standard and 30 percent of monthly adjusted family income. In determine the maximum initial housing assistance payment for the family, the PHA will use the payment standard in effect on the date the tenancy is approved by the PHA. The family may choose to rent a unit for more than the payment standard, but this choice does not change the amount of the PHA's assistance payment. The actual amount of the PHA's assistance payment will be determined using the gross rent for the unit selected by the family.

2. Voucher

A. When issuing this voucher the PHA expects that if the family finds an approval unit, the PHA will have the money available to enter into a HAP contract with the owner. However, the PHA is under no obligation to the family, to any owner, or to any other person, to approve a tenancy. The PHA does not have any liability to any party by the issuance of this voucher.

B. The voucher does not give the family any right to participate in the PHA's housing choice voucher program. The family becomes participant in the PHA's housing choice voucher program when the HAP contract between the PHA and the owner takes effect.

C. During the initial or any extended term of this voucher, the PHA may require the family to report progress in leasing a unit at such intervals and times as determined by the PHA.

3. PHA Approval or Disapproval of Unit or Lease

A. When the family finds a suitable unit where the owner is willing to participate in the program, the family must give the PHA the request for tenancy approval (of the form supplied by the PHA), signed by the owner and the family, and a copy of the lease, including the HUD-prescribed tenancy addendum. **Note: Both documents must be given to the PHA no later than the expiration date stated in item 3 or 4 on top of page one of this voucher.**

B. The family must submit these documents in the manner that is required by the PHA. PHA policy may prohibit the family from submitting more than one request for tenancy approval at a time.

C. The lease must include, word-for-word, all provisions of the tenancy addendum required by HUD and supplied by the PHA. This is done by adding the HUD tenancy addendum to the lease used by the owner. If there is a difference between any provisions of the HUD tenancy addendum and any provisions of the owner's lease, the provision of the HUD tenancy addendum shall control.

D. After receiving the request for tenancy approval and a copy of the lease, the PHA will inspect the unit. The PHA may not give approval for the family to lease the unit or execute the HAP contract until the PHA has determined that all the following program requirements are met: the unit is eligible; the unit has been inspected by the PHA and passes the housing quality standards (HQS); the rent is reasonable; and the landlord and tenant have executed the lease including the HUD-prescribed tenancy addendum.

E. If the PHA approves the unit, the PHA will notify the family and the owner, and will furnish two copies of the HAP contract to the owner.
   1. The owner and the family must execute the lease.
   2. The owner must sign both copies of the HAP contract and must furnish to the PHA a copy of the executed lease and both copies of the executed HAP contract.
   3. The PHA will execute the HAP contract and return an executed copy to the owner.

F. If the PHA determined that the unit or lease cannot be approved for any reason, the PHA will notify the owner and the family that:
   1. The proposed unit or lease is disapproved for specified reasons, and
   2. If the conditions requiring disapproval are remedied to the satisfaction of the PHA on or before the date specified by the PHA, the unit or lease will be approved.

4. Obligations of the Family

A. When the family's unit is approved and the HAP contract is executed, the family must follow the rules listed below in order to continue participating in the housing choice voucher program.

B. The family must:
   1. Supply any information that the PHA or HUD determined to be necessary including evidence of citizenship or eligible immigration status, and information for use in a regularly schedule reexamination or interim reexamination of family income and composition.

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2. Disclose and verify social security numbers and sign and submit consent forms for obtaining information.
3. Supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
4. Promptly notify the PHA in writing when the family is away from the unit for an extended period of time in accordance with PHA policies.
5. Allow the PHA to inspect the unit at reasonable times and after reasonable notice.
6. Notify the PHA and the owner in writing before moving out of the unit or terminating the lease.
7. Use the assisted unit for residence by the family. The unit must be the family's only residence.
8. Promptly notify the PHA in writing of the birth, adopting, or court-awarded custody of a child.
9. Request PHA written approval to add any other family member as an occupant of the unit.
10. Promptly notify the PHA in writing if any family member no longer lives in the unit. Give the PHA a copy of any owner eviction notice.
11. Pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

C. Any information the family supplies must be true and complete.

D. The family (including each family member) must not:
1. Own or have any interest in the unit (other than in a cooperative, or the owner of a manufactured home leasing a manufactured home space).
2. Commit any serious or repeated violation of the lease.
3. Commit fraud, bribery or any other corrupt or criminal act in connection with the program.
4. 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.
5. Sublease or let the unit or assign the lease or transfer the unit.
6. Receive housing choice voucher program housing assistance while receiving another housing subsidy, for the same unit or a different unit under any other Federal, State, or local housing assistance program.
7. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.
8. Receive housing choice voucher program housing assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.
9. 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.

5. Illegal Discrimination

If the family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of age, race, color, religion, sex (including sexual orientation and gender identity), disability, national origin, or familial status, the family may file a housing discrimination complaint with any HUD Field Office in person, by mail, or by telephone. The PHA will give the family information on how to fill out and file a complaint.

6. Expiration and Extension of Voucher

The voucher will expire on the date stated in item 3 on the top of page one of the voucher unless the family requests an extension in writing and the PHA grants a written extension of the voucher in which case the voucher will expire on the date stated in item 4. At its discretion, the PHA may grant a family's request for one or more extensions of the initial term.

If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, in accordance with part 8 of this title, to make the program accessible to a family member who is a person with disabilities, the PHA must extend the voucher term up to the term reasonably required for that purpose.

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Learning Activity 4-2: Voucher Learning Activity

- **Directions:** Using the voucher on page 4-17 in this book, answer the following questions:

1. Who signs the voucher?

- **Section 2: Voucher**

2. Does issuance of the voucher obligate the PHA to approve a particular tenancy?

3. May the PHA require the family report progress in their search for a unit? Explain.

- **Section 3: PHA Approval or Disapproval of Unit or Lease**

4. The lease must include what document?

5. Once the PHA receives the request for tenancy approval (RFTA) and a copy of the lease, what are the next steps in order for the PHA to approve a unit?

6. Who signs the HAP contract?

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- **Section 4: Obligations of the Family**

7. List three things the family must do:

8. List three things the family must not do:

- **Section 5: Illegal Discrimination**

9. What are the three ways a family may file a discrimination complaint with HUD?

_____

- **Section 6: Expiration and Extension of Voucher**

10. May the PHA ever grant more than one extension of the voucher?

_____

Learning Activity 4-3: Voucher Knowledge Check

1. Issuance of a voucher to a qualified family constitutes admission to the program
   a. True
   b. False

2. The initial term of the voucher can be 30 days if it is a PHA policy stated in the administrative plan
   a. True
   b. False

3. When the PHA issues a voucher, it is obligated to provide housing assistance to the family
   a. True
   b. False

4. A briefing packet must be issued
   a. When a family moves from one unit to another
   b. When a family wants to exercise portability
   c. After a family has been determined eligible and prior to or upon the initial issuance of a voucher for admission to the program
   d. When the family reaches the top of the waiting list
   e. Both a and c

5. Suspension of the voucher term:
   a. Is an optional policy for the PHA
   b. Is required by HUD
   c. Is only required for persons with disabilities
   d. Stops the clock on the voucher term from the date a RFTA is received until the PHA notifies the family in writing whether the request has been approved or denied
   e. Both b and d

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6. At what point is the family considered admitted to the program?
   a. The effective date of the first HAP contract for the family
   b. The date the family is pulled from the waiting list
   c. The date of the first HAP payment on the family's behalf

7. The number of bedrooms on the voucher is determined by the PHA's subsidy standards.
   a. True
   b. False

8. A family may select a unit with fewer bedrooms than listed on their voucher provided the unit is not overcrowded.
   a. True
   b. False

9. A family may only select a larger unit than listed on their voucher as a reasonable accommodation for a family member with disabilities.
   a. True
   b. False

10. The PHA may not approve a unit where the owner is the cousin of a member of the assisted family.
    a. True
    b. False

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Notes

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CHAPTER 5 Leasing

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
- Describe the various aspects of the leasing process in its entirety, including:
  - Listing the pre-leasing requirements for families and owners, including submission of the RFTA, inspection requirements, and eligible housing types
  - Analyzing the components of the tenancy addendum
  - Analyzing the components of the HAP contract
  - Discussing the required components of the owner's lease
  - Discussing mandatory and optional disapproval of owner
  - Discussing rent to owner and analyze the rent reasonableness process

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Section 5.1 Where a Family Can Lease

CFR 982.353(a)

- The family may receive tenant-based assistance to lease a unit located:
  - Anywhere within the initial PHA's jurisdiction
  - Outside the initial PHA's jurisdiction under the portability requirements

CFR 982.353(b)

CFR 982.353(e)

- The family may select the dwelling unit they have been residing in prior to participation in the program if the unit is approvable. This is called leasing in place.

CFR 982.353(f)

- The PHA may not directly or indirectly reduce a family's opportunity to select among available units other than exceptions identified in the regulations, such as:
  - The housing is ineligible
  - The housing does not meet housing quality standards
  - The rent to owner exceeds reasonable rent

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PROHIBITION AGAINST OTHER HOUSING SUBSIDY

24 CFR 982.352(c)

- A family may not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:
  - Public or Indian housing assistance;
  - Other Section 8 assistance (including other tenant-based assistance);
  - Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
  - Section 101 rent supplements;
  - Section 236 rental assistance payments;
  - Tenant-based assistance under the HOME Program;
  - Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
  - Any local or State rent subsidy;
  - Section 202 supportive housing for the elderly;
  - Section 811 supportive housing for persons with disabilities;
  - 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.

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PHA Option and Owner Responsibility for Screening Tenants

- The PHA may elect to screen applicants for family behavior or suitability for tenancy in accordance with policies stated in the PHA's administrative plan.

CFR 982.307(a)(1), (2)

- However, the PHA has no liability or responsibility to the owner for a family's behavior or suitability for tenancy.
  - The PHA must inform the owner that it is the owner's responsibility to screen the family's behavior or suitability for tenancy.

CFR 982.307(b)(1)

- The PHA must give the owner from its records:
  - The family's current and prior address (as shown in PHA records)
  - The names and addresses (if known) of the family's current and prior landlords.

CFR 982.307(b)(2)

- The PHA may offer to the owner other information about the tenancy history of family members or about drug trafficking by family members.

CFR 982.307(a)(3)

- The owner is responsible for screening a family's behavior or suitability for tenancy.
  - The owner is permitted to screen based on a family's tenancy history

CFR 982.307(a)(3)(i) through (v)

  - The owner may consider a family's background regarding factors such as:
    - Payment of rent and utility bills
    - Caring for rental units/premises
    - Respecting others' rights to peaceful enjoyment of their housing
    - Drug-related criminal activity or other criminal activity that is a threat to the life, safety, or property of others
    - Compliance with other essential conditions of tenancy

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Section 5.2 Initial Steps in the Leasing Process

REQUEST FOR TENANCY APPROVAL

CFR 982.302(b)
CFR 982.302(c)

- When a family finds a suitable unit and the owner is willing to lease the unit under the program, the family must submit to the PHA:
  - A completed Request for Tenancy Approval Form HUD-52517
  - A copy of the proposed lease, including the HUD-prescribed tenancy addendum
- Both documents must be submitted during the term of the voucher.

CFR 982.302(d)

- The PHA specifies the procedure for requesting approval of the tenancy.
  - The family must submit the request in the form and manner required by the PHA for review and approval

Form HUD-52517

- The Request for Tenancy Approval includes:
  - Distribution of utilities and appliances
  - Certification that the rent charged for the HCV tenant is not more than the rent charged for unassisted units
  - Certification that the owner is not a prohibited relative of any family member
  - Lead-based paint disclosure
  - Notice that the PHA has not screened the family for behavior and suitability for tenancy (such screening is the responsibility of the owner)

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HUD-52517 Request for Tenancy Approval

Request for Tenancy Approval
Housing Choice Voucher Program

U.S Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
exp. 04/30/2026

When the participant selects a unit, the owner of the unit completes this form to provide the PHA with information about the unit. The information is used to determine if the unit is eligible for rental assistance.

1. Name of Public Housing Agency (PHA)			2. Address of Unit (street address, unit #, city, state, zip code)		
3. Requested Lease Start Date	4. Number of Bedrooms	5. Year Constructed	6. Proposed Rent	7. Security Deposit Amt	8. Date Unit Available for Inspection

9. Structure Type

- ☐ Single Family Detached (one family under one roof)
- ☐ Semi-Detached (duplex, attached on one side)
- ☐ Rowhouse/Townhouse (attached on two sides)
- ☐ Low-rise apartment building (4 stories or fewer)
- ☐ High-rise apartment building (5+ stories)
- ☐ Manufactured Home (mobile home)

10. If this unit is subsidized, indicate type of subsidy:

- ☐ Section 202
- ☐ Section 221(d)(3)(BMIR)
- ☐ Tax Credit
- ☐ HOME
- ☐ Section 236 (insured or uninsured)
- ☐ Section 515 Rural Development
- ☐ Other (Describe Other Subsidy, including any state or local subsidy) _____

11. Utilities and Appliances

The owner shall provide or pay for the utilities/appliances indicated below by an "**O**". The tenant shall provide or pay for the utilities/appliances indicated below by a "**T**". Unless otherwise specified below, the owner shall pay for all utilities and provide the refrigerator and range/microwave.

Item	Specify fuel type	Paid by
Heating	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Heat Pump ☐ Oil ☐ Other	
Cooking	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Other	
Water Heating	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Oil ☐ Other	
Other Electric		
Water		
Sewer		
Trash Collection		
Air Conditioning		
Other (specify)		
		Provided by
Refrigerator		
Range/Microwave		

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12. Owner's Certifications

a. The program regulation requires the PHA to certify that the rent charged to the housing choice voucher tenant is not more than the rent charged for other unassisted comparable units. Owners of projects with more than 4 units must complete the following section for most recently leased comparable unassisted units within the premises.

Address and unit number	Date Rented	Rental Amount
1.		
2.		
3.		

b. The owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving leasing of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

c. Check one of the following:

☐ Lead-based paint disclosure requirements do not apply because this property was built on or after January 1, 1978.

☐ The unit, common areas servicing the unit, and exterior painted surfaces associated with such unit or common areas have been found to be lead-based paint free by a lead-based paint inspector certified under the Federal certification program or under a federally accredited State certification program.

☐ A completed statement is attached containing disclosure of known information on lead-based paint and/or lead-based paint hazards in the unit, common areas or exterior painted surfaces, including a statement that the owner has provided the lead hazard information pamphlet to the family.

13. The PHA has not screened the family's behavior or suitability for tenancy. Such screening is the owner's responsibility.

14. The owner's lease must include word-for-word all provisions of the HUD tenancy addendum.

15. The PHA will arrange for inspection of the unit and will notify the owner and family if the unit is not approved.

OMB Burden Statement: The public reporting burden for this information collection is estimated to be 0.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Collection of information about the unit features, owner name, and tenant name is voluntary. The information sets provides the PHA with information required to approve tenancy. Assurances of confidentiality are not provided under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Privacy Notice: The Department of Housing and Urban Development (HUD) is authorized to collect the information required on this form by 24 CFR 982.302. The form provides the PHA with information required to approve tenancy. The Personally Identifiable Information (PII) data collected on this form are not stored or retrieved within a system of record.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

Print or Type Name of Owner/Owner Representative		Print or Type Name of Household Head	
Owner/Owner Representative Signature		Head of Household Signature	
Business Address		Present Address	
Telephone Number	Date (mm/dd/yyyy)	Telephone Number	Date (mm/dd/yyyy)

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PROGRAM REQUIREMENTS

CFR 982.305

- The PHA may not approve an assisted tenancy or execute a contract until the following program requirements are met:
  1. The unit is eligible
  2. The unit has been inspected and has met inspection standards (some temporary exceptions are optional)
  3. The lease includes the HUD tenancy addendum
  4. The rent to owner is reasonable
  5. At the initial assisted leasing of a unit for which the gross rent exceeds the payment standard, the family share does not exceed 40 percent of monthly adjusted income

ELIGIBLE HOUSING

CFR 982.352

- The following types of housing may not be assisted in the tenant-based program:
  - Public housing or Indian housing unit
  - Units receiving project-based section assistance
  - Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services
  - College or other school dormitories
  - Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions
  - Owner-occupied units

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NSPIRE

CFR 982.4

- The National Standards for the Physical Inspection of Real Estate (NSPIRE) is a new physical inspection model developed by HUD's Real Estate Assessment Center (REAC) to align multiple HUD program to a single set of standards.
- NSPIRE replaces Uniform Physical Condition Standards (UPCS) in public housing and HQS in HCV and PBV.
- The goal of NSPIRE is to ensure that all residents live in safe, habitable dwellings, the items and components located inside the building, outside the building, and within the units of HUD housing must be functionally adequate, operable, and free of health and safety hazards.
- HUD extended the compliance date for NSPIRE-V from October 1, 2024, to October 1, 2025, to give PHAs additional time to transition to the NSPIRE standards. HUD encourages any PHA that is ready to implement NSPIRE to do so at their earliest convenience.
  - However, the regulations on inspection administration will continue to use "HQS" and "housing quality standards" not "NSPIRE" when discussing inspections in the HCV program
  - HUD defines housing quality standards (HQS) as the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 (NSPIRE) for the HCV program, including any variations approved by HUD for the PHA
- Note that PHAs and owners must also comply with state, local, and other codes.

CFR 982.305

- Before the beginning of the initial term of the lease for a unit, the PHA must have completed an inspection of the unit and determined that the unit satisfies inspection standards, unless the PHA has adopted an alternative policy.
- The PHA must inspect the unit, determine whether the unit satisfies NSPIRE, and notify the family and owner of the determination:
  - In the case of a PHA with up to 1250 budgeted units in its tenant-based program, within 15 days after the family and the owner submit a request for approval of the tenancy
  - In the case of a PHA with more than 1250 budgeted units in its tenant-based program, within a 'reasonable time' after the family submits a request for approval of the tenancy
    - To the extent practicable, inspection and determination must be completed within 15 days after the family and the owner submit a request for approval of the tenancy.
  - The 15 day clock is suspended during any period the unit is not available for inspection
- Failed items must be verified as corrected before the beginning of the initial lease term and prior to HAP contract execution. For both initial and ongoing inspections, the PHA may:
  - Verify deficiencies are corrected without going on site
  - Establish different methods for initial and other inspections or for different deficiencies
  - Accept photos or other reliable evidence of correction

OPTIONAL INSPECTION CHANGES UNDER HOTMA

- HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet housing quality standards before the PHA approves assisted tenancy.
- However, PHAs have two options for bringing units under HAP contract 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 (known as the "NLT option"); and/or
  - 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 housing quality standards prior to approving tenancy.

Section 5.3 The Owner's Lease

Learning Activity 5-1: The Owner's Lease

Directions: Using the excerpt from the Code of Federal Regulations below and the following lease, determine which HUD-required lease provisions are missing from this owner's lease.

24 CFR 982.308 Lease and tenancy

(d) *Required information.* The lease must specify all of the following:

(1) The names of the owner and the tenant;

(2) The unit rented (address, apartment number, and any other information needed to identify the contract unit);

(3) The term of the lease (initial term and any provisions for renewal);

(4) The amount of the monthly rent to owner; and

(5) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Residential Lease

Property Address: 1572 Marsh Street, Cityville, ST 44444

Lessor: D'Angelo Vickers

Lessee: Ron Swanson

Contract Rent: $585

Rent Payments: Rent is due no later than the 5th of each month. Rent will be paid in full to D'Angelo Vickers.

Late Payments: A late payment of $25 per day will be assessed for rent paid after the 5th of each month.

Deposit: $1000 **Lease Start Date:** 1/1/13

Lease Term: One year, renews automatically annually thereafter

X D'Angelo Vickers Date: 1/1/13

X Ron Swanson Date: 1/1/13

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1. What information is missing from the owner's lease?

2. Given the missing information, what next steps would you take at your agency? In other words, what does your PHA do if the owner's lease is missing required information? What other documents do you use?

LEASE REQUIREMENTS

CFR 982.308(a)
- A tenant must have the legal capacity to enter into a lease under state and local law.

CFR 982.308(b)
- The tenant and the owner must enter a lease for the unit. The HAP contract contains the owner's certification that:

CFR 982.308(b)
  - If the owner uses a standard lease form for unassisted tenancies on the premises, the lease for this assisted tenancy is in the same standard form

CFR 982.308(c)
  - The terms and conditions of the lease are consistent with state and local law

CFR 982.308(c)
- The PHA may review the lease to see if it complies with state and local law and may decline to approve the lease if it does not comply.

CFR 982.308(d)
- The lease must contain:
  - The name of the owner and tenant
  - The address of the unit rented (including the apartment number)
  - The amount of the monthly rent to owner
  - Specifications about which utilities and appliances are to be supplied by the owner and which are to be supplied by the family

Industry Practice
- The lease form used by the owner sets:
  - Tenant termination notice
  - Owner rent increase periods

CFR 982.308(d)
  - The term of the lease (initial and any provisions for renewal)

INITIAL TERM OF THE LEASE

CFR 982.309(a)
HAP Contract Instructions

- The initial term of the lease must be for at least one year.
- However, the PHA may approve a shorter term if the PHA determines that:
  - A shorter term would improve housing opportunities for the tenant
  - Shorter terms are the prevailing market practice

CFR 982.308(e)
Tenancy Addendum

- The rent to owner must be reasonable.

CFR 982.308(f)(2)
HAP Contract
Tenancy Addendum

- All provisions of the HUD-required tenancy addendum must be added word for word to the standard form lease used by the owner for unassisted tenancies.

CFR 982.308(f)(1)(i)

- The tenancy addendum sets forth tenancy requirements for the program.

CFR 982.308(f)(2)
HAP Contract
Tenancy Addendum

- 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.

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TENANCY ADDENDUM
Section 8 Tenant-Based Assistance
Housing Choice Voucher Program
(To be attached to Tenant Lease)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
exp. 04/30/2026

OMB Burden Statement. The public reporting burden for this information collection is estimated to be up to 0.5 hours, including the time for reading the contract. No information is collected on this form. The form is required to establish contract terms between the participant family and owner and is required to be an addendum to the lease (24 CFR § 982.308(f). Assurances of confidentiality are not provided under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

1. Section 8 Voucher Program

a. The owner is leasing the contract unit to the tenant for occupancy by the tenant's family with assistance for a tenancy under the Section 8 housing choice voucher program (voucher program) of the United States Department of Housing and Urban Development (HUD).

b. The owner has entered into a Housing Assistance Payments Contract (HAP contract) with the PHA under the voucher program. Under the HAP contract, the PHA will make housing assistance payments to the owner to assist the tenant in leasing the unit from the owner.

2. Lease

a. The owner has given the PHA a copy of the lease, including any revisions agreed by the owner and the tenant. The owner certifies that the terms of the lease are in accordance with all provisions of the HAP contract and that the lease includes the tenancy addendum.

b. The tenant shall have the right to enforce the tenancy addendum against the owner. If there is any conflict between the tenancy addendum and any other provisions of the lease, the language of the tenancy addendum shall control.

3. Use of Contract Unit

a. During the lease term, the family will reside in the contract unit with assistance under the voucher program.

b. The composition of the household must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. Other persons may not be added to the household without prior written approval of the owner and the PHA.

c. The contract unit may only be used for residence by the PHA-approved household members. The unit must be the family's only residence. Members of the household may engage in legal profit making activities incidental to primary use of the unit for residence by members of the family.

d. The tenant may not sublease or let the unit.

e. The tenant may not assign the lease or transfer the unit.

4. Rent to Owner

a. The initial rent to owner may not exceed the amount approved by the PHA in accordance with HUD requirements.

b. Changes in the rent to owner shall be determined by the provisions of the lease. However, the owner may not raise the rent during the initial term of the lease.

c. During the term of the lease (including the initial term of the lease and any extension term), the rent to owner may at no time exceed:

(1) The reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements, or

(2) Rent charged by the owner for comparable unassisted units in the premises.

5. Family Payment to Owner

a. The family is responsible for paying the owner any portion of the rent to owner that is not covered by the PHA housing assistance payment.

b. Each month, the PHA will make a housing assistance payment to the owner on behalf of the family in accordance with the HAP contract. The amount of the monthly housing assistance payment will be determined by the PHA in accordance with HUD requirements for a tenancy under the Section 8 voucher program.

c. The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract unit.

d. The tenant is not responsible for paying the portion of rent to owner covered by the PHA housing assistance payment under the HAP contract between the owner and the PHA. A PHA failure to pay the housing assistance payment to the owner is not a violation of the lease. The owner may not terminate the tenancy for nonpayment of the PHA housing assistance payment.

e. The owner may not charge or accept, from the family or from any other source, any payment for rent of the unit in addition to the rent to owner. Rent to owner includes all housing services, maintenance, utilities and appliances to be provided and paid by the owner in accordance with the lease.

f. The owner must immediately return any excess rent payment to the tenant.

6. Other Fees and Charges

a. Rent to owner does not include cost of any meals or supportive services or furniture which may be provided by the owner.

b. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy.

c. The owner may not charge the tenant extra amounts for items customarily included in rent to owner in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

7. Maintenance, Utilities, and Other Services

a. **Maintenance**

(1) The owner must maintain the unit and premises in accordance with the HQS.

(2) Maintenance and replacement (including redecoration) must be in accordance with the

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standard practice for the building concerned as established by the owner.

b. **Utilities and appliances**

(1) The owner must provide all utilities needed to comply with the HQS.

(2) The owner is not responsible for a breach of the HQS caused by the tenant's failure to:

(a) Pay for any utilities that are to be paid by the tenant.

(b) Provide and maintain any appliances that are to be provided by the tenant.

c. **Family damage**. The owner is not responsible for a breach of the HQS because of damages beyond normal wear and tear caused by any member of the household or by a guest.

d. **Housing services**. The owner must provide all housing services as agreed to in the lease.

8. Termination of Tenancy by Owner

a. **Requirements**. The owner may only terminate the tenancy in accordance with the lease and HUD requirements.

b. **Grounds**. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:

(1) Serious or repeated violation of the lease;

(2) Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;

(3) Criminal activity or alcohol abuse (as provided in paragraph c); or

(4) Other good cause (as provided in paragraph d).

c. **Criminal activity or alcohol abuse**

(1) The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:

(a) 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);

(b) 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;

(c) Any violent criminal activity on or near the premises; or

(d) Any drug-related criminal activity on or near the premises.

(2) The owner may terminate the tenancy during the term of the lease if any member of the household is:

(a) 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

(b) Violating a condition of probation or parole under Federal or State law.

(3) The owner may terminate the tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

(4) The owner may terminate the 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.

d. **Other good cause for termination of tenancy**

(1) During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.

(2) During the initial lease term or during any extension term, other good cause may include:

(a) Disturbance of neighbors,

(b) Destruction of property, or

(c) Living or housekeeping habits that cause damage to the unit or premises.

(3) After the initial lease term, such good cause may include:

(a) The tenant's failure to accept the owner's offer of a new lease or revision;

(b) The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or

(c) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).

(4) The examples of other good cause in this paragraph do not preempt any State or local laws to the contrary.

(5) In the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease, requiring the tenant to vacate the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner:

(a) Will occupy the unit as a primary residence; and

(b) Has provided the tenant a notice to vacate at least 90 days before the effective date of such notice. This provision shall not affect any State or local law that provides for longer time periods or addition protections for tenants.

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). Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

a. **Purpose:** This section incorporates the protections for victims of domestic violence, dating violence, sexual assault, or stalking in accordance with subtitle N of the Violence Against Women Act of 1994, as amended (codified as amended at 42 U.S.C. 14043e et seq.) (VAWA) and implementing regulations at 24 CFR part 5, subpart L.

b. **Conflict with other Provisions:** In the event of any conflict between this provision and any other provisions included in Part C of the HAP contract, this provision shall prevail.

c. **Effect on Other Protections**: Nothing in this section 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.

d. **Definition:** As used in this Section, the terms "actual and imminent threat," "affiliated individual", "bifurcate", "dating violence," "domestic violence," "sexual assault," and "stalking" are defined in HUD's regulations at 24 CFR part 5, subpart L. The terms "Household" and "Other Person Under the Tenant's Control" are defined at 24 CFR part 5, subpart A.

e. **VAWA Notice and Certification Form:** The PHA shall provide the tenant with the "Notice of Occupancy Rights under VAWA and the certification form described under 24 CFR 5.2005(a)(1) and (2).

f. **Protection for victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking:**

(1) The landlord or the PHA will not deny admission to, deny assistance under, terminate from participation in, or evict the Tenant on the basis of or as a direct result of the fact that the Tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the Tenant otherwise qualifies for admission, assistance, participation, or occupancy. 24 CFR 5.2005(b)(1).

(2) The tenant shall not be denied tenancy or occupancy rights solely on the basis of criminal activity engaged in by a member of the Tenant's Household or any guest or Other Person Under the Tenant's Control, if the criminal activity is directly related to domestic violence, dating violence, sexual assault, or stalking, and the Tenant or an Affiliated Individual of the Tenant is the victim or the threatened victim of domestic violence, dating violence, sexual assault, or stalking. 24 CFR 5.2005(b)(2).

(3) An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of the incident. Nor shall it not be construed as other "good cause" for termination of the lease, tenancy, or occupancy rights of such a victim or threatened victim. 24 CFR 5.2005(c)(1) and (c)(2).

g. **Compliance with Court Orders:** Nothing in this Addendum will limit the authority of the landlord, when notified by a court order, to comply with the court order with respect to 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 with respect to the distribution or possession of property among members of the Tenant's Household. 24 CFR 5.2005(d)(1).

h. **Violations Not Premised on Domestic Violence, Dating Violence, Sexual Assault, or Stalking:** Nothing in this section shall be construed to limit any otherwise available authority of the Landlord to evict or the public housing authority to terminate the assistance of 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. However, the Landlord or the PHA will not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance. 24 CFR 5.2005(d)(2).

i. **Actual and Imminent Threats:**

(1) Nothing in this section will be construed to limit the authority of the Landlord to evict the Tenant if the Landlord can demonstrate that an "actual and imminent threat" to other tenants or those employed at or providing service to the property would be present if the Tenant or lawful occupant is not evicted. In this context, words, gestures, actions, or other indicators will be construed as an actual and imminent threat if they meet the following standards for an actual and imminent threat: "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. 24 CFR 5.2005(d)(3).

(2) If an actual and imminent threat is demonstrated, eviction should be used 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, developing 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. 24 CFR 5.2005(d)(4).

j. **Emergency Transfer**: A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may request an emergency transfer in accordance with the PHA's emergency transfer plan. 24 CFR 5.2005(e). The PHA's emergency transfer plan must be made available upon request, and incorporate strict confidentiality measures to ensure that the PHA does not disclose a tenant's dwelling unit location to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant;

For transfers in which the tenant would not be considered a new applicant, the PHA must ensure that a request for an

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emergency transfer receives, at a minimum, any applicable additional priority that is already provided to other types of emergency transfer requests. For transfers in which the tenant would be considered a new applicant, the plan must include policies for assisting a tenant with this transfer.

. **Bifurcation**: Subject to any lease termination requirements or procedures prescribed by Federal, State, or local law, if any member of the Tenant's Household engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, the Landlord may "bifurcate" the Lease, or remove that Household member from the Lease, without regard to whether that Household member is a signatory to the Lease, in order to evict, remove, or terminate the occupancy rights of that Household member without evicting, removing, or otherwise penalizing the victim of the criminal activity who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program. 24 CFR 5.2009(a).

If the Landlord bifurcates the Lease to evict, remove, or terminate assistance to a household member, and that household member is the sole tenant eligible to receive assistance, the landlord shall provide any remaining tenants or residents a period of 30 calendar days from the date of bifurcation of the lease to:

(1) Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease;

(2) Establish eligibility under another covered housing program; or

(3) Find alternative housing.

Family Break-up: If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. 24 CFR 982.315.

ı. **Move with Continued Assistance:** The public housing agency may not terminate assistance to a family or member of the family that moves out of a unit in violation of the lease, with or without prior notification to the public housing agency if such a move occurred to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, or if any family member has been the victim of sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

(1) The move is needed to protect the health or safety of the family or family member who is or has been a victim of domestic violence dating violence, sexual assault or stalking; and

(2) The family or member of the family reasonably believes that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. 24 CFR 982.354.

n. **Confidentiality.**

(1) The Landlord shall maintain in strict confidence any information the Tenant (or someone acting on behalf of the Tenant) submits to the Landlord concerning incidents of domestic violence, dating violence, sexual assault or stalking, including the fact that the tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.

(2) The Landlord shall not allow any individual administering assistance on its behalf, or any persons within its employ, to have access to confidential information unless explicitly authorized by the Landlord for reasons that specifically call for these individuals to have access to the information pursuant to applicable Federal, State, or local law.

(3) The Landlord shall not enter confidential information into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is requested or consented to in writing by the individual in a time-limited release; required for use in an eviction proceeding; or is required by applicable law.

10. Eviction by court action

The owner may only evict the tenant by a court action.

11. Owner notice of grounds

a. At or before the beginning of a court action to evict the tenant, the owner must give the tenant a notice that specifies the grounds for termination of tenancy. The notice may be included in or combined with any owner eviction notice.

b. The owner must give the PHA a copy of any owner eviction notice at the same time the owner notifies the tenant.

c. Eviction notice means a notice to vacate, or a complaint or other initial pleading used to begin an eviction action under State or local law.

12. Lease: Relation to HAP Contract

If the HAP contract terminates for any reason, the lease terminates automatically.

13. PHA Termination of Assistance

The PHA may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements. If the PHA terminates program assistance for the family, the lease terminates automatically.

14. Family Move Out

The tenant must notify the PHA and the owner before the family moves out of the unit.

15. Security Deposit

a. The owner may collect a security deposit from the tenant. (However, the PHA may prohibit the owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. Any such PHA-required restriction must be specified in the HAP contract.)

b. When the family moves out of the contract unit, the owner, subject to State and local law, may use the

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security deposit, including any interest on the deposit, as reimbursement for any unpaid rent payable by the tenant, any damages to the unit or any other amounts that the tenant owes under the lease.

c. The owner must give the tenant a list of all items charged against the security deposit, and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must promptly refund the full amount of the unused balance to the tenant.

d. If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may collect the balance from the tenant.

16. Prohibition of Discrimination

In accordance with applicable nondiscrimination and equal opportunity laws, statutes, Executive Orders, and regulations, the owner must not discriminate against any person because of race, color, religion, sex (including sexual orientation and gender identity), national origin, age, familial status or disability in connection with the lease. Eligibility for HUD's programs must be made without regard to actual or perceived sexual orientation, gender identity, or marital status.

17. Conflict with Other Provisions of Lease

a. The terms of the tenancy addendum are prescribed by HUD in accordance with Federal law and regulation, as a condition for Federal assistance to the tenant and tenant's family under the Section 8 voucher program.

b. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

18. Changes in Lease or Rent

a. The tenant and the owner may not make any change in the tenancy addendum. However, if the tenant and the owner agree to any other changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must be in accordance with the requirements of the tenancy addendum.

b. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner:

(1) If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;

(2) If there are any changes in lease provisions governing the term of the lease;

(3) If the family moves to a new unit, even if the unit is in the same building or complex.

c. PHA approval of the tenancy, and execution of a new HAP contract, are not required for agreed changes in the lease other than as specified in paragraph b.

d. The owner must notify the PHA of any changes in the amount of the rent to owner at least sixty days before any such changes go into effect, and the amount of the rent to owner following any such agreed change may not exceed the reasonable rent for the unit as most recently determined or redetermined by the PHA in accordance with HUD requirements.

19. Notices

Any notice under the lease by the tenant to the owner or by the owner to the tenant must be in writing.

20. Definitions

Contract unit. The housing unit rented by the tenant with assistance under the program.

Family. The persons who may reside in the unit with assistance under the program.

HAP contract. The housing assistance payments contract between the PHA and the owner. The PHA pays housing assistance payments to the owner in accordance with the HAP contract.

Household. The persons who may reside in the contract unit. The household consists of the family and any PHA-approved live-in aide. (A live-in aide is a person who resides in the unit to provide necessary supportive services for a member of the family who is a person with disabilities.)

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the Section 8 tenant-based programs.

HUD. The U.S. Department of Housing and Urban Development.

HUD requirements. HUD requirements for the Section 8 program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Lease. The written agreement between the owner and the tenant for the lease of the contract unit to the tenant. The lease includes the tenancy addendum prescribed by HUD.

PHA. Public Housing Agency.

Premises. The building or complex in which the contract unit is located, including common areas and grounds.

Program. The Section 8 housing choice voucher program.

Rent to owner. The total monthly rent payable to the owner for the contract unit. The rent to owner is the sum of the portion of rent payable by the tenant plus the PHA housing assistance payment to the owner.

Section 8. Section 8 of the United States Housing Act of 1937 (42 United States Code 1437f).

Tenant. The family member (or members) who leases the unit from the owner.

Voucher program. The Section 8 housing choice voucher program. Under this program, HUD provides funds to a PHA for rent subsidy on behalf of eligible families. The tenancy under the lease will be assisted with rent subsidy for a tenancy under the voucher program.

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Learning Activity 5-2: Tenancy Addendum Exercise

- Break up into groups. Refer to tenancy addendum to answer the following questions in each section. Please cite the relevant part of the contract that addresses the issue (i.e., Section 3, b). Each group should elect a spokesperson who will report their findings to the class.

SECTION 3

1. Jamie Jones, a participant in the HCV program, recently married Daniel Smith. The PHA has determined that he is eligible for the program; however, the owner of her unit has refused to add him to the lease due to his poor tenancy history. Does the owner have to allow Mr. Smith to be added?

2. Barbara Davis was recently awarded custody of her granddaughter. Does she need to obtain permission from the owner or PHA to add her to the HCV unit?

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3. Juana Martinez sells Avon and frequently has clients in her HCV unit to demonstrate new products. Is this allowable?

SECTION 4

4. What is the owner prohibited from doing during the initial term of the lease?

5. How often can an owner raise the rent after the initial term?

SECTION 5

6. Barney Fritz, an HCV owner, is currently in abatement for noncompliance with housing quality standards. His HCV tenant is still paying her portion, but he has demanded that she pay the entire rent. He is now in the process of evicting her for nonpayment of rent. Is this allowable?

SECTION 6

7. Don Stanziano is the owner of a property called Urban Villas. Some of his tenants have HCV vouchers and some do not. Parking is limited, and he charges all his tenants an additional $100 per month for a parking space. Is this allowable?

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SECTION 8

8. Jerome Glassman resides in an HCV unit in Denver. He recently went on vacation and was convicted for drug use in Las Vegas. Can the owner terminate his tenancy?

9. Jami Chen had a party and one of her invitees threatened the property manager. Can the owner terminate her tenancy?

10. Does the owner need an arrest or a conviction to terminate tenancy?

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11. Can the owner terminate tenancy during the initial term of the lease for housekeeping habits that cause damage to the unit or premises?

12. During the initial term of the lease, the owner offered the tenant a new lease that will now require the tenant to pay all of the utilities. The tenant refused to sign the new lease. Can the owner terminate their tenancy during the initial term?

SECTION 9

13. Under what two conditions can an owner still terminate tenancy of a victim of domestic violence?

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SECTION 15

14. If the security deposit does not cover the amounts the family owes under the lease, what can the owner do?

SECTION 18

15. How many days notice does the owner have to give the PHA for rent changes?

16. Can the owner and tenant agree to make changes to the tenancy addendum?

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17. Indicate whether any of the following changes would require the PHA approve a new tenancy and execute a new HAP contract:

    - The owner was paying for water but has offered the tenant a new lease that would require the tenant to pay for water.
    - The owner raised the family's rent.
    - A change in family composition.
    - A change in ownership.
    - The owner's lease renewal terms are month-to-month. The owner wants to change those terms to have the lease extended for a 12-month period
    - At the family's annual reexamination.
    - The family moves to a new unit in the same complex.

- Note that the tenancy addendum *does not* include:

    - Renewal terms
    - Family notice to owner
    - Utility responsibilities

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Section 5.4 Disapproval of the Owner

CFR 982.306(f)

- In matters of approval or disapproval, the term *owner* includes a principal or other interested party.

CFR 982.306(d)

- The PHA *must not* approve an assisted tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family unless approving the unit would provide reasonable accommodation for a family member with disabilities.

Response from HUD 12/10/98

  - The relatives rule applies only to new admissions and moves occurring on or after 6/17/98.

CFR 982.306(a)

- The PHA *must not* approve an assisted tenancy if it has been notified that the owner is debarred, suspended, or subject to a limited denial of participation under 24 CFR Part 24.

CFR 982.306(b)(1) & (2)

- The PHA *must not* approve an assisted tenancy when directed by HUD if:
  - Federal administrative or judicial action is pending against the owner for violating the Fair Housing Act or other federal equal opportunity requirements
  - A court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

- You can check if an owner has been debarred by accessing the Excluded Parties Listing System:
  - http://www.sam.gov

Section 5.5 Final Steps in Leasing Process

DOCUMENT EXECUTION

CFR 982.305(d)
- When the lease approval process is completed, the PHA notifies the landlord and family of the lease approval or disapproval.

CFR 982.162(a)(2)
- The HAP contract (HUD-52641) for the Housing Choice Voucher program is between the PHA and the owner.

CFR 982.451(a)(1)
- The HAP contract must be in the form required by HUD.

CFR 982.308(f)
- The HAP contract form required by HUD must include the tenancy addendum that sets forth the tenancy requirements for the program.

CFR 982.305(c)(1)
- The PHA must use its best efforts to execute the HAP contract before the beginning of the lease term.

CFR 982.305(c)(1)
- The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

CFR 982.305(c)(2)
  - The PHA may not pay any housing assistance payments to the owner until the HAP contract has been executed.

CFR 982.305(c)(3)
- If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will make housing assistance payments after the execution of the HAP contract to cover the portion of the lease term before the HAP contract was executed (maximum of 60 days).

CFR 982.451(a)(2)
CFR 982.309(b)(1)
- The term of the HAP contract begins on the first day of the term of the lease and ends on the last day of the term of the lease.

CFR 982.309(b)(2)
  - The HAP contract terminates if the lease terminates.

CFR 982.305(c)(4)

- Any HAP contract executed after the 60-day period is void, and the PHA may not make any housing assistance payments to the owner.
  - Unless there are extenuating circumstances, the PHA may submit a request to the field office for an extension no later than two weeks after the 60-day deadline. The request must include an explanation of the extenuating circumstances and any supporting documentation.

Section 5.6 The Housing Assistance Payments Contract (Form HUD-52641)

- The HAP contract has a cover sheet, "Instructions for Use of HAP Contract", which is followed by three parts:
  - Part A: Contract information
  - Part B: Body of contract
  - Part C: Tenancy Addendum

INSTRUCTIONS FOR USE OF HAP CONTRACT

VAWA AND HAP CONTRACT

- The Housing Assistance Payments Contract (form HUD-52641) and Tenancy Addendum (form HUD-52641A) contain wording to reflect the requirements of the Violence against Women Act (VAWA), specifying the protections for victims of abuse.
- Owners have the authority to bifurcate a lease or remove an individual in all existing leases and amending those leases is not necessary for owners to exercise that right.

MODIFICATIONS AND ADDITIONS TO THE HAP CONTRACT

- Modification of the HAP contract is not permitted, and it must be word for word in the form prescribed by HUD. However, the PHA is permitted to add the following provisions to Part A of the HAP contract:
  - Language that prohibits the owner from collecting a security deposit in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants
  - Language that defines when the housing assistance payment by the PHA is deemed received by the owner (ex. Upon mailing by the PHA or actual receipt by the owner).

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USE FOR SPECIAL HOUSING TYPES

CFR Part 982, Subpart M

- In addition to the voucher program, HUD-52641 is also used for special housing types for special needs:
  - Single room occupancy
  - Congregate housing
  - Group home
  - Shared housing
  - Manufactured home rental that leases the manufactured home and space.
- The HAP contract may not be used for:
  - A manufactured home space rental by a family that owns the manufactured home
  - Cooperative housing
  - The homeownership option.

Housing Assistance Payments (HAP) Contract
Section 8 Tenant-Based Assistance
Housing Choice Voucher Program

OMB Approval No. 2577-0169
exp. 4/30/2026

OMB Burden Statement. The public reporting burden for this information collection is estimated to be up to 0.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is required to establish the terms between a private market owner and a PHA for participating in the program, including whether the tenant or owner pays for utilities and services. Assurances of confidentiality are not provided under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.
Privacy Notice. The Department of Housing and Urban Development (HUD) is authorized to collect the information on this form by 24 CFR § 982.451. The information is used to provide Section 8 tenant-based assistance under the Housing Choice Voucher program in the form of housing assistance payments. The Personally Identifiable Information (PII) data collected on this form are not stored or retrieved within a system of record.

Instructions for use of HAP Contract

This form of Housing Assistance Payments Contract (HAP contract) is used to provide Section 8 tenant-based assistance under the housing choice voucher program (voucher program) of the U.S. Department of Housing and Urban Development (HUD). The main regulation for this program is 24 Code of Federal Regulations Part 982.

The local voucher program is administered by a public housing agency (PHA). The HAP contract is an agreement between the PHA and the owner of a unit occupied by an assisted family. The HAP contract has three parts:
Part A Contract information (fill-ins).
See section by section instructions.
Part B Body of contract
Part C Tenancy addendum

Use of this form

Use of this HAP contract is required by HUD. Modification of the HAP contract is not permitted. The HAP contract must be word-for-word in the form prescribed by HUD.
However, the PHA may choose to add the following:

Language that prohibits the owner from collecting a security deposit in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. Such a prohibition must be added to Part A of the HAP contract.

Language that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner). Such language must be added to Part A of the HAP contract.
To prepare the HAP contract, fill in all contract information in Part A of the contract. Part A must then be executed by the owner and the PHA.

Use for special housing types

In addition to use for the basic Section 8 voucher program, this form must also be used for the following "special housing types" which are voucher program variants for special needs (see 24 CFR Part 982, Subpart M): (1) single room occupancy (SRO) housing; (2) congregate housing; (3) group home; (4) shared housing; and (5) manufactured home rental by a family that leases the manufactured home and space. When this form is used for a special housing type, the special housing type shall be specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Insert Name of Special Housing type)."
However, this form may not be used for the following special housing types: (1) manufactured home space rental by a family that owns the manufactured home and leases only the space; (2) cooperative housing; and (3) the homeownership option under Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)).

How to fill in Part A
Section by Section Instructions

Section 2: **Tenant**
Enter full name of tenant.

Section 3. **Contract Unit**
Enter address of unit, including apartment number, if any.

Section 4. **Household Members**
Enter full names of all PHA-approved household members. Specify if any such person is a live-in aide, which is a person approved by the PHA to reside in the unit to provide supportive services for a family member who is a person with disabilities

Section 5. **Initial Lease Term**

Enter first date and last date of initial lease term.

The initial lease term must be for at least one year. However, the PHA may approve a shorter initial lease term if the PHA determines that:

- Such shorter term would improve housing opportunities for the tenant, and
- Such shorter term is the prevailing local market practice.

Section 6. **Initial Rent to Owner**

Enter the amount of the monthly rent to owner during the initial lease term. The PHA must determine that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. During the initial lease term, the owner may not raise the rent to owner.

Section 7. **Housing Assistance Payment**

Enter the initial amount of the monthly housing assistance payment.

Section 8. **Utilities and Appliances**.
The lease and the HAP contract must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the tenant. Fill in section 8 to show who is responsible to provide or pay for utilities and appliances.

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Part A of the HAP Contract: Contract Information

(To prepare the contract, fill out all contract information in Part A.)

1. **Contents of Contract**
   This HAP contract has three parts:
   Part A: Contract Information
   Part B: Body of Contract
   Part C: Tenancy Addendum

2. **Tenant**

3. **Contract Unit**

4. **Household**

   The following persons may reside in the unit. Other persons may not be added to the household without prior written approval of the owner and the PHA.

5. **Initial Lease Term**

   The initial lease term begins on (mm/dd/yyyy): _____

   The initial lease term ends on (mm/dd/yyyy): _____

6. **Initial Rent to Owner**
   The initial rent to owner is: $ _____
   During the initial lease term, the owner may not raise the rent to owner.

7. **Initial Housing Assistance Payment**

The HAP contract term commences on the first day of the initial lease term. At the beginning of the HAP contract term, the amount of the housing assistance payment by the PHA to the owner is $ _____ per month.
The amount of the monthly housing assistance payment by the PHA to the owner is subject to change during the HAP contract term in accordance with HUD requirements.

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8. Utilities and Appliances

The owner shall provide or pay for the utilities/appliances indicated below by an "**O**". The tenant shall provide or pay for the utilities/appliances indicated below by a "**T**". Unless otherwise specified below, the owner shall pay for all utilities and provide the refrigerator and range/microwave.

Item	Specify fuel type	Paid by
Heating	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Heat Pump ☐ Oil ☐ Other	
Cooking	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Other	
Water Heating	☐ Natural gas ☐ Bottled gas ☐ Electric ☐ Oil ☐ Other	
Other Electric		
Water		
Sewer		
Trash Collection		
Air Conditioning		
Other (specify)		
		Provided by
Refrigerator		
Range/Microwave		

Signatures

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. § 287, 1001, 1010, 1012; U.S.C. § 3729, 3802).

Public Housing Agency

Print or Type Name of PHA

Signature

Print or Type Name and Title of Signatory

Date (mm/dd/yyyy)

Owner

Print or Type Name of Owner

Signature

Print or Type Name and Title of Signatory

Date (mm/dd/yyyy)

Mail payments to:

Name

Address (street, city, state, zip code)

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Part B of HAP Contract: Body of Contract

1. Purpose

a. This is a HAP contract between the PHA and the owner. The HAP contract is entered to provide assistance for the family under the Section 8 voucher program (see HUD program regulations at 24 Code of Federal Regulations Part 982).

b. The HAP contract only applies to the household and contract unit specified in Part A of the HAP contract.

c. During the HAP contract term, the PHA will pay housing assistance payments to the owner in accordance with the HAP contract.

d. The family will reside in the contract unit with assistance under the Section 8 voucher program. The housing assistance payments by the PHA assist the tenant to lease the contract unit from the owner for occupancy by the family.

2. Lease of Contract Unit

a. The owner has leased the contract unit to the tenant for occupancy by the family with assistance under the Section 8 voucher program.

b. The PHA has approved leasing of the unit in accordance with requirements of the Section 8 voucher program.

c. The lease for the contract unit must include word-for-word all provisions of the tenancy addendum required by HUD (Part C of the HAP contract).

d. The owner certifies that:

(1) The owner and the tenant have entered into a lease of the contract unit that includes all provisions of the tenancy addendum.

(2) The lease is in a standard form that is used in the locality by the owner and that is generally used for other unassisted tenants in the premises.

(3) The lease is consistent with State and local law.

e. The owner is responsible for screening the family's behavior or suitability for tenancy. The PHA is not responsible for such screening. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or the family's conduct in tenancy.

3. Maintenance, Utilities, and Other Services

a. The owner must maintain the contract unit and premises in accordance with the housing quality standards (HQS).

b. The owner must provide all utilities needed to comply with the HQS.

c. If the owner does not maintain the contract unit in accordance with the HQS, or fails to provide all utilities needed to comply with the HQS, the PHA may exercise any available remedies. PHA remedies for such breach include recovery of overpayments, suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract. The PHA may not exercise such remedies against the owner because of an HQS breach for which the family is responsible, and that is not caused by the owner.

d. The PHA shall not make any housing assistance payments if the contract unit does not meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within the period specified by the PHA.

e. The PHA may inspect the contract unit and premises at such times as the PHA determines necessary, to ensure that the unit is in accordance with the HQS.

f. The PHA must notify the owner of any HQS defects shown by the inspection.

g. The owner must provide all housing services as agreed to in the lease.

4. Term of HAP Contract

a. Relation to lease term. The term of the HAP contract begins on the first day of the initial term of the lease, and terminates on the last day of the term of the lease (including the initial lease term and any extensions).

b. When HAP contract terminates.

(1) The HAP contract terminates automatically if the lease is terminated by the owner or the tenant.

(2) The PHA may terminate program assistance for the family for any grounds authorized in accordance with HUD requirements. If the PHA terminates program assistance for the family, the HAP contract terminates automatically.

(3) If the family moves from the contract unit, the HAP contract terminates automatically.

(4) The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

(5) The PHA may terminate the HAP contract if the PHA determines, in accordance with HUD requirements, that available program funding is not sufficient to support continued assistance for families in the program.

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(6) The HAP contract terminates automatically upon the death of a single member household, including single member households with a live-in aide.

(7) The PHA may terminate the HAP contract if the PHA determines that the contract unit does not provide adequate space in accordance with the HQS because of an increase in family size or a change in family composition.

(8) If the family breaks up, the PHA may terminate the HAP contract, or may continue housing assistance payments on behalf of family members who remain in the contract unit.

(9) The PHA may terminate the HAP contract if the PHA determines that the unit does not meet all requirements of the HQS, or determines that the owner has otherwise breached the HAP contract.

5. Provision and Payment for Utilities and Appliances

a. The lease must specify what utilities are to be provided or paid by the owner or the tenant.

b. The lease must specify what appliances are to be provided or paid by the owner or the tenant.

c. Part A of the HAP contract specifies what utilities and appliances are to be provided or paid by the owner or the tenant. The lease shall be consistent with the HAP contract.

6. Rent to Owner: Reasonable Rent

a. During the HAP contract term, the rent to owner may at no time exceed the reasonable rent for the contract unit as most recently determined or redetermined by the PHA in accordance with HUD requirements.

b. The PHA must determine whether the rent to owner is reasonable in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider:

(1) The location, quality, size, unit type, and age of the contract unit; and

(2) Any amenities, housing services, maintenance and utilities provided and paid by the owner.

c. The PHA must redetermine the reasonable rent when required in accordance with HUD requirements. The PHA may redetermine the reasonable rent at any time.

d. During the HAP contract term, the rent to owner may not exceed rent charged by the owner for comparable unassisted units in the premises. The owner must give the PHA any information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere.

7. PHA Payment to Owner

a. When paid

(1) During the term of the HAP contract, the PHA must make monthly housing assistance payments to the owner on behalf of the family at the beginning of each month.

(2) The PHA must pay housing assistance payments promptly when due to the owner.

(3) If housing assistance payments are not paid promptly when due after the first two calendar months of the HAP contract term, the PHA shall pay the owner penalties if all of the following circumstances apply: (i) Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant; (ii) It is the owner's practice to charge such penalties for assisted and unassisted tenants; and (iii) The owner also charges such penalties against the tenant for late payment of family rent to owner. However, the PHA shall not be obligated to pay any late payment penalty if HUD determines that late payment by the PHA is due to factors beyond the PHA's control. Moreover, the PHA shall not be obligated to pay any late payment penalty if housing assistance payments by the PHA are delayed or denied as a remedy for owner breach of the HAP contract (including any of the following PHA remedies: recovery of overpayments, suspension of housing assistance payments, abatement or reduction of housing assistance payments, termination of housing assistance payments and termination of the contract).

(4) Housing assistance payments shall only be paid to the owner while the family is residing in the contract unit during the term of the HAP contract. The PHA shall not pay a housing assistance payment to the owner for any month after the month when the family moves out.

b. **Owner compliance with HAP contract** Unless the owner has complied with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments under the HAP contract.

c. Amount of PHA payment to owner

(1) The amount of the monthly PHA housing assistance payment to the owner shall be determined by the PHA in accordance with HUD requirements for a tenancy under the voucher program.

(2) The amount of the PHA housing assistance payment is subject to change during the HAP contract term in accordance with HUD requirements. The PHA must notify the family and the owner of any changes in the amount of the housing assistance payment.

(3) The housing assistance payment for the first month of the HAP contract term shall be prorated for a partial month.

d. **Application of payment** The monthly housing assistance payment shall be credited against the monthly rent to owner for the contract unit.

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e. **Limit of PHA responsibility**

(1) The PHA is only responsible for making housing assistance payments to the owner in accordance with the HAP contract and HUD requirements for a tenancy under the voucher program.

(2) The PHA shall not pay any portion of the rent to owner in excess of the housing assistance payment. The PHA shall not pay any other claim by the owner against the family.

f. **Overpayment to owner** If the PHA determines that the owner is not entitled to the housing assistance payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner (including amounts due under any other Section 8 assistance contract).

8. Owner Certification

During the term of this contract, the owner certifies that:

a. The owner is maintaining the contract unit and premises in accordance with the HQS.

b. The contract unit is leased to the tenant. The lease includes the tenancy addendum (Part C of the HAP contract), and is in accordance with the HAP contract and program requirements. The owner has provided the lease to the PHA, including any revisions of the lease.

c. The rent to owner does not exceed rents charged by the owner for rental of comparable unassisted units in the premises.

d. Except for the rent to owner, the owner has not received and will not receive any payments or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit during the HAP contract term.

e. The family does not own or have any interest in the contract unit.

f. To the best of the owner's knowledge, the members of the family reside in the contract unit, and the unit is the family's only residence.

g. The owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

9. Prohibition of Discrimination. In accordance with applicable nondiscrimination and equal opportunity laws, statutes, Executive Orders, and regulations.

a. The owner must not discriminate against any person because of race, color, religion, sex(including sexual orientation and gender identity), national origin, age, familial status, or disability in connection with the HAP contract. Eligibility for HUD's programs must be made without regard to actual or perceived sexual orientation, gender identity, or marital status.

b. The owner must cooperate with the PHA and HUD in conducting equal opportunity compliance reviews and complaint investigations in connection with the HAP contract.

c. Violence Against Women Act. The owner must comply with the Violence Against Women Act, as amended, and HUD's implementing regulation at 24 CFR part 5, Subpart L, and program regulations.

10. Owner's Breach of HAP Contract

a. Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner:

(1) If the owner has violated any obligation under the HAP contract, including the owner's obligation to maintain the unit in accordance with the HQS.

(2) If the owner has violated any obligation under any other housing assistance payments contract under Section 8.

(3) If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.

(4) For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.

(5) If the owner has engaged in any drug-related criminal activity or any violent criminal activity.

b. If the PHA determines that a breach has occurred, the PHA may exercise any of its rights and remedies under the HAP contract, or any other available rights and remedies for such breach. The PHA shall notify the owner of such determination, including a brief statement of the reasons for the determination. The notice by the PHA to the owner may require the owner to take corrective action, as verified or determined by the PHA, by a deadline prescribed in the notice.

c. The PHA's rights and remedies for owner breach of the HAP contract include recovery of overpayments, suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract.

d. The PHA may seek and obtain additional relief by judicial order or action, including specific performance, other injunctive relief or order for damages.

e. Even if the family continues to live in the contract unit, the PHA may exercise any rights and remedies for owner breach of the HAP contract.

f. The PHA's exercise or non-exercise of any right or remedy for owner breach of the HAP contract is not a

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waiver of the right to exercise that or any other right or remedy at any time.

11. PHA and HUD Access to Premises and Owner's Records

a. The owner must provide any information pertinent to the HAP contract that the PHA or HUD may reasonably require.

b. The PHA, HUD and the Comptroller General of the United States shall have full and free access to the contract unit and the premises, and to all accounts and other records of the owner that are relevant to the HAP contract, including the right to examine or audit the records and to make copies.

c. The owner must grant such access to computerized or other electronic records, and to any computers, equipment or facilities containing such records, and must provide any information or assistance needed to access the records.

12. Exclusion of Third Party Rights

a. The family is not a party to or third party beneficiary of Part B of the HAP contract. The family may not enforce any provision of Part B, and may not exercise any right or remedy against the owner or PHA under Part B.

b. The tenant or the PHA may enforce the tenancy addendum (Part C of the HAP contract) against the owner, and may exercise any right or remedy against the owner under the tenancy addendum.

c. The PHA does not assume any responsibility for injury to, or any liability to, any person injured as a result of the owner's action or failure to act in connection with management of the contract unit or the premises or with implementation of the HAP contract, or as a result of any other action or failure to act by the owner.

d. The owner is not the agent of the PHA, and the HAP contract does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with management of the contract unit or the premises or with implementation of the HAP contract.

13. Conflict of Interest

a. "Covered individual" means a person or entity who is a member of any of the following classes:

(1) Any present or former member or officer of the PHA (except a PHA commissioner who is a participant in the program);

(2) Any employee of the PHA, or any contractor, sub-contractor or agent of the PHA, who formulates policy or who influences decisions with respect to the program;

(3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the program; or

(4) Any member of the Congress of the United States.

b. A covered individual may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or during one year thereafter.

c. "Immediate family member" means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister or brother (including a stepsister or stepbrother) of any covered individual.

d. The owner certifies and is responsible for assuring that no person or entity has or will have a prohibited interest, at execution of the HAP contract, or at any time during the HAP contract term.

e. If a prohibited interest occurs, the owner shall promptly and fully disclose such interest to the PHA and HUD.

f. The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

g. No member of or delegate to the Congress of the United States or resident commissioner shall be admitted to any share or part of the HAP contract or to any benefits which may arise from it.

14. Assignment of the HAP Contract

a. The owner may not assign the HAP contract to a new owner without the prior written consent of the PHA.

b. If the owner requests PHA consent to assign the HAP contract to a new owner, the owner shall supply any information as required by the PHA pertinent to the proposed assignment.

c. The HAP contract may not be assigned to a new owner that is debarred, suspended or subject to a limited denial of participation under HUD regulations (see 24 Code of Federal Regulations Part 24).

d. The HAP contract may not be assigned to a new owner if HUD has prohibited such assignment because:

(1) The Federal government has instituted an administrative or judicial action against the owner or proposed new owner for violation of the Fair Housing Act or other Federal equal opportunity requirements, and such action is pending; or

(2) A court or administrative agency has determined that the owner or proposed new owner violated the Fair Housing Act or other Federal equal opportunity requirements.

e. The HAP contract may not be assigned to a new owner if the new owner (including a principal or other interested party) is the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the family of such determination) that approving the assignment, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

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f. The PHA may deny approval to assign the HAP contract if the owner or proposed new owner (including a principal or other interested party):

(1) Has violated obligations under a housing assistance payments contract under Section 8;

(2) Has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program;

(3) Has engaged in any drug-related criminal activity or any violent criminal activity;

(4) Has a history or practice of non-compliance with the HQS for units leased under the Section 8 tenant-based programs, or non-compliance with applicable housing standards for units leased with project-based Section 8 assistance or for units leased under any other Federal housing program;

(5) Has a history or practice of failing to terminate tenancy of tenants assisted under any 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:

(a) Threatens the right to peaceful enjoyment of the premises by other residents;

(b) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;

(c) Threatens the health or safety of, or the right to peaceful enjoyment of their residents by, persons residing in the immediate vicinity of the premises; or

(d) Is drug-related criminal activity or violent criminal activity;

(6) Has a history or practice of renting units that fail to meet State or local housing codes; or

(7) Has not paid State or local real estate taxes, fines or assessments.

g. The new owner must agree to be bound by and comply with the HAP contract. The agreement must be in writing, and in a form acceptable to the PHA. The new owner must give the PHA a copy of the executed agreement.

15. Foreclosure. In the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the HAP contract between the prior owner and the PHA for the occupied unit. This provision does not affect any State or local law that provides longer time periods or other additional protections for tenants.

16. Written Notices Any notice by the PHA or the owner in connection with this contract must be in writing.

17. Entire Agreement: Interpretation

a. The HAP contract contains the entire agreement between the owner and the PHA.

b The HAP contract shall be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including the HUD program regulations at 24 Code of Federal Regulations Part 982.

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Learning Activity 5-3: HAP Contract Exercise

- Break up into groups. Refer to Part B of the housing assistance payments contract to answer the following questions in each section. Please cite the relevant part of the contract that addresses the issue (i.e., Section 14 d. (1). Each group should elect a spokesperson who will report their findings to the class.

SECTION 4:

1. When does the term of the HAP contract begin?

2. When does the term of the HAP contract terminate?

3. If a single person dies, when does the HAP Contract terminate?

SECTION 7:

4. If HAP is not paid on time, what does the PHA have to pay?

5. If the owner's lease does not have a provision for late fees charged to the tenant, does the PHA have to pay late fees?

6. Please indicate for the following reasons if the PHA would generally be required to pay late fees.

   a. The PHA is abating HAP due to owner's noncompliance with inspection standards.

   b. There was a natural disaster that prevented the PHA from paying on time.

   c. The PHA is backlogged due to changes in staff.

   d. HUD was late in disbursing funds to the PHA.

   e. The PHA has not paid during the first two months because the contract has not been signed.

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7. If a family moved out on March 25, and the PHA did not find out until April, does the owner have to return the HAP check for April?

8. What can the PHA do if the owner was overpaid and will not reimburse the PHA?

SECTION 10:

9. Can the PHA terminate the HAP contract if the owner was arrested for drug use?

10. Can the PHA terminate the HAP contract if the owner committed fraud in a Section 8 new construction unit?

11. If the PHA determined that the owner breached the HAP contract, what remedies does the PHA have?

12. Can the PHA still enforce its remedies if the family remains in the unit?

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SECTION 12:

13. If the HCV participant was injured due to an action caused by the owner, does the PHA have any liability?

SECTION 13:

14. What four classes of people does HUD consider "covered individuals"?

15. Can covered individuals enter into HAP contracts with the PHA?

16. Can the stepfather of a member of Congress be a Section 8 owner?

17. What is an exception?

SECTION 14:

18. What must the owner do before assigning the HAP contract?

19. Can the owner assign the HAP contract to an owner who did not pay their real estate taxes?

20. What does the PHA need from the new owner for assignment of the contract?

Section 5.7 Rent

RENT TO OWNER

- Rent to owner is the total monthly rent payable to the owner under the lease for the unit. Rent to owner includes payment for any housing services, maintenance, and utilities the owner is required to pay for and provide.

CFR 982.507

Rent to Owner: Maximum Rent at Initial Occupancy

- The only limitation on the amount of rent to owner is rent reasonableness.

CFR 982.508

- At the time the PHA approves tenancy for initial occupancy of a dwelling unit, if the gross rent for the unit is greater than the payment standard for the family, the family share may not exceed 40 percent of the family's adjusted monthly income.
  - This limit applies at admission to the program and whenever a family moves thereafter.

CFR 982.308(g)

RENT INCREASES IN THE HOUSING CHOICE VOUCHER PROGRAM

- After the initial term of the lease, the owner may increase the rent.
- The owner must notify the PHA (in writing) of the increase at least 60 days before the change is to be effective.
- Changes in the rent are subject to rent reasonableness requirements.
- PHA approval of tenancy and execution of a new HAP contract are **not** required for a change in the amount of rent to owner.

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RENT REASONABLENESS

GENERAL POLICIES

- The purpose of the rent reasonableness test is to assure that:
  - A fair rent is paid for units selected for participation in the HCV program
  - The program does not have the effect of inflating rents in the community

CFR 982.54(d)(15)

- The PHA must have a written method of determining reasonable rent in its administrative plan.

CFR 982.4(b)

  - *Reasonable rent* is defined as "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."
  - Notice PIH 2020-19 provides additional information on rent reasonableness determinations, particularly in terms of what constitutes an assisted vs. unassisted unit.

CFR 982.507(a)(1)

- Rent reasonableness determinations must be made before the PHA approves the initial rent to owner.

CFR 982.507(a)(2)

- The PHA must redetermine the reasonable rent:
  - Before any increase in the rent to owner
  - If there is a 10 percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary
  - If directed by HUD

CFR 982.507(a)(3)

- The PHA may also redetermine the reasonable rent at any other time.

CFR 982.507(d)
CFR 985.3(b)

- PHAs must document on a case-by-case basis that the approved rent is reasonable based on current rents for comparable unassisted units.

CFR 982.507(d)
Notice PIH 2003-12

- The PHA's comparability system must take into consideration the following nine factors, but the PHA is **not** required to quantifiably document or separately evaluate each of the factors:
  - Location
  - Size
  - Type
  - Quality
  - Age of unit
  - Amenities
  - Housing services
  - Maintenance
  - Utilities supplied by the owner

Owner Certification

CFR 982.507(c)

- By accepting each monthly PHA payment from the PHA, the owner certifies that the rent to owner is not more than the rent charged by the owner for comparable unassisted units.

CFR 982.507(c)

- The owner must give the PHA information requested by the PHA regarding rents charged for other units.

Notice PIH 2003-12

- Since June 2003, Form HUD-52517, Request for Tenancy Approval (RFTA), has included a section requiring owners of projects with more than four units to supply information about three recently leased comparable unassisted units within the premises.
  - The PHA can use this information to determine and document rent reasonableness for comparable unassisted units in the same apartment complex.
  - Moreover, if the apartment complex is not substantially assisted, the PHA may base its rent reasonableness determination on the rents charged for the three recent rentals identified by the owner on the RFTA. In such cases, the PHA does not have to obtain additional rent comparables in other multifamily housing in the area.

DEFINITION OF ADMISSION

CFR 982.4

- Admission is the effective date of the first HAP contract with an owner for assistance to a family in the PHA's tenant-based program. At this point, the applicant family becomes a participant family.
  - Issuance of a voucher is not considered an "admission."

EIV INCOME REPORT

Notice PIH 2018-18

- For each new admission, the PHA is required to review the EIV Income report to confirm and validate family-reported income within 120 days of the new admission 50058 submission date.
- The EIV Income report should be printed and maintained in the tenant file as evidence this action was taken. If any income discrepancies are identified, they must be resolved within 60 days of the EIV Income report date.

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Learning Activity 5-4: Leasing Knowledge Check

1. The tenancy addendum includes:
   a. Terms of lease renewal
   b. Requirements for family notice to owner
   c. Utility responsibilities
   d. Requirements for the program to be added to the owner's lease

2. List three reasons a new HAP contract must be executed.

   1. _____

   2. _____

   3. _____

3. Unless an exception is approved by HUD, any HAP contract executed more than 60 calendar days from the beginning of the lease term is void, and the PHA may not pay any HAP to the owner.
   a. True
   b. False

4. If the PHA opts to screen the family behavior or suitability for tenancy, the PHA has a liability to the owner for the family's behavior.
   a. True
   b. False

5. PHAs are not permitted to approve a lease with an initial term of less than one year.
   a. True
   b. False

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6. According to the HAP contract, if the brother of a member of Congress was the owner of the unit a voucher holder wanted to lease, it would be a conflict of interest.
   a. True
   b. False

7. If PHA policy permits, owners can increase the rent during the initial term of the lease.
   a. True
   b. False

8. During the initial term of the lease, the owner may change utility responsibilities if the tenant does not use utilities responsibly.
   a. True
   b. False

9. The owner may only terminate the lease for living or housekeeping habits that cause damage to the unit or premises after the initial term of the lease.
   a. True
   b. False

10. The owner may not raise the rent during the initial term of the lease.
    a. True
    b. False

11. After the initial term of the lease, the owner may only request a rent increase at the annual anniversary date of the HAP contract each year.
    a. True
    b. False

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12. Which of the following is good cause for the owner to terminate tenancy during the initial term of the lease?.
    a. Nonpayment of rent
    b. Disturbance of neighbors
    c. Destruction of property
    d. All of the above

13. The owner must notify the PHA in writing ___ days before the effective date of a rent increase.
    a. 30
    b. 60
    c. 90
    d. 120

14. According to HUD regulations, if a family moved on July 10, they could not receive rental assistance in their new unit until August 1 in order to prevent duplicative housing assistance payments.
    a. True
    b. False

15. The PHA is required to determine whether the family is eligible for the HCV program and screen the family for suitability as a renter.
    a. True
    b. False

16. A rent reasonableness determination must be conducted prior to the PHA approving an owner's rent increase request.
    a. True
    b. False

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17. If an owner is in abatement for failing to correct deficiencies in the unit, the family is responsible for paying the entire rent to owner for the unit.
    a. True
    b. False

18. If the security deposit the owner collects from the family is not enough to cover amounts owed by the family under the lease, the PHA is not responsible for paying the owner the difference. The owner must collect amounts due from the family.
    a. True
    b. False

19. The initial term of the lease and the effective date of the HAP contract must be within 60 days of each other.
    a. True
    b. False

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Section 5.8 Non-Life-Threatening (NLT) Option

- A PHA that implements the NLT option may apply the option to all of the PHA's initial inspections or may limit it to certain units.
- If the NLT option is adopted, the PHA must follow requirements listed at 24 CFR 982.405(j) for family and owner notification.
- The PHA's administrative plan must specify the circumstances under which the PHA will exercise the NLT option, if any.
- The PHA must notify the owner and the family if the NLT option is available for the unit selected by the family. After completing the inspection and determining there are no life-threatening deficiencies, the PHA provides both the owner and the family with a list of all the non-life-threatening deficiencies identified by the initial inspection and, should the owner not complete the repairs within 30 days, the maximum amount of time the PHA will withhold HAP before abating assistance.
- The PHA must also inform the family that if the family accepts the unit and the owner fails to make the repairs within the cure period, which may not exceed 180 days from the effective date of the HAP contract, the PHA will terminate the HAP contract, and the family will have to move to another unit in order to receive voucher assistance. The family may choose to decline the unit based on the deficiencies and continue its housing search.

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- The PHA must establish in the administrative plan:
  - The maximum amount of time it will withhold payments if the owner fails to correct the deficiencies within the required cure period before abating payments; and
  - The date by which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract.

ALTERNATIVE INSPECTIONS

- The PHA may implement the use of alternative inspections for both initial and periodic inspections or may limit the use of alternative inspections to either initial or periodic inspections.
- The PHA may limit the use of alternative inspections to certain units, as provided in the PHA's administrative plan.
- In order to qualify as an alternative inspection method, the eligible inspection method must meet the requirements under 24 CFR 982.406(c).
- The PHA must identify alternative inspection methods being used in the administrative plan, making clear the specific properties and types of properties for which the inspection methods will be employed.
- If an alternative inspection method employs sampling, then a PHA may rely on such alternative inspection method for purposes of an initial or periodic inspection only if units occupied by voucher program participants are included in the population of units forming the basis of the sample.

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- In order for a PHA to rely on the results of an alternative inspection for purposes of an initial or periodic inspection, a property must meet the standards or requirements regarding housing quality or safety applicable to properties assisted under the program using the alternative inspection method. To make the determination of whether such standards or requirements are met, the PHA must adhere to the following procedures:
  - If a property is inspected under an alternative inspection method, and the property receives a "pass" score, then the PHA may rely on that inspection.
  - If a property is inspected under an alternative inspection method, and the property receives a "fail" score, then the PHA may not rely on that inspection.
  - If a property is inspected under an alternative inspection method that does not employ a pass/fail determination (for example, in the case of a program where deficiencies are simply identified), then the PHA must review the list of deficiencies to determine whether any cited deficiency would have resulted in a "fail" score under NSPIRE/HQS. If no such deficiency exists, then the PHA may rely on the inspection. If such a deficiency does exist, then the PHA may not rely on the inspection.
- Under any circumstance described above in which a PHA is prohibited from relying on an alternative inspection method for a property, the PHA must, within a reasonable period of time, conduct an inspection of any units in the property occupied by voucher program participants and follow HQS/NSPIRE procedures to remedy any identified deficiencies.

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- For initial inspections, the PHA may approve the tenancy, allow the family to enter into the lease agreement, and execute the HAP contract for a unit that has been inspected in the previous 24 months where the alternative inspection meets the requirements of this section.
  - The PHA notifies the owner and the family that the unit selected by the family is eligible for the alternative inspection option. The PHA must provide the family with the PHA list of life-threatening deficiencies as part of this notification. If the owner and family agree to the use of this option, the PHA approves the assisted tenancy, allows the family to enter into the lease agreement with the owner, and executes the HAP contract on the basis of the alternative inspection.
  - The PHA must conduct an inspection within 30 days of receiving the RTA. If the family reports a deficiency to the PHA prior to the PHA's inspection, the PHA must inspect the unit within the time period required under 24 CFR 982.405(d) or within 30 days of the effective date of the HAP contract, whichever time period ends first.
  - The PHA must enter into the HAP contract with the owner before conducting the inspection. The PHA may not make housing assistance payments to the owner until the PHA has inspected the unit.

- The PHA may start housing assistance payments to the owner and make housing assistance payments retroactive to the effective date of the HAP contract only after the unit passes the PHA's inspection. If the unit does not pass the PHA's inspection, the PHA may not make housing assistance payments to the owner until all the deficiencies have been corrected. If a deficiency is life-threatening, the owner must correct the deficiency within 24 hours of notification from the PHA. For other deficiencies, the owner must correct the deficiency within no more than 30 calendar days (or any PHA-approved extension) of notification from the PHA. If the owner corrects the deficiencies within the required cure period, the PHA makes the housing assistance payments retroactive to the effective date of the HAP contract.

- The PHA must establish in the administrative plan:
  - The maximum amount of time it will withhold payments if the owner does not correct the deficiencies within the required cure period before abating payments; and
  - The date by which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract
- If the PHA adopts the alternative inspection option in combination with the non-life-threatening deficiencies option, the PHA must follow family and owner notification requirements listed at 24 CFR 982.406(f).

OPTIONAL DISAPPROVAL OF OWNERS

CFR 982.306(c)(1) through (7)

- The PHA *may* deny approval to lease a unit from an owner for any of the following reasons:
  - The owner has violated his or her obligations under a Section 8 HAP contract
  - Owner has committed fraud, bribery or any other corrupt or criminal act involving any federal housing program
  - Owner has engaged in any drug-related or violent criminal activity
  - The owner has a history or practice of noncompliance with housing quality standards for tenant-based programs or with applicable standards for other federal housing programs
  - The owner has a history or practice of failing to terminate the tenancy of tenants of units assisted under HCV 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, employees of the PHA or the owner, or other persons engaged in management of the housing;
    - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
    - Is drug-related criminal activity or violent criminal activity.
  - The owner has a history or practice of renting units that fail State or local housing codes
  - The owner has not paid state or local real estate taxes, fines, or assessments.

CFR 982.306(e)

- The regulations do not intend to give any owner any right to participate in the program.

INITIATING PAYMENTS TO THE OWNER

CFR 982.305(c)(2)

- Once the contract is executed, the PHA begins processing payments to the landlord.

Industry Practice

- The effective date and the amount of the payment is communicated (in written form) to the PHA's financial manager.
  - Copies of the notification to finance should be maintained in the tenant file.

CFR 982.451(b)(5)

- The PHA must pay the housing assistance payment promptly when due.

Industry Practice

- To prepare the documents, the PHA must compute the total tenant payment, the tenant rent, the utility reimbursement (if any) and the housing assistance payment (HAP).
- Once the leasing documents are prepared, the PHA should meet with the landlord and family (preferably together) to review the documents with them.
- In addition to reviewing the specific terms of the contract and lease, the PHA should explain in detail:
  - Owner requirements to maintain the unit, allow inspections, and inform the PHA if the tenant vacates without notice
  - Tenant requirements to pay rent, maintain the unit, allow inspections, cooperate with the PHA's reexamination requirements, and notify the PHA when the family wishes to move
- After the review, the landlord, the tenant, and the PHA execute the documents as appropriate.

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DOCUMENT DISTRIBUTION

- Document copies are distributed as follows:
  - **Owner:** One copy of the contract, one copy of the lease, and one copy of the tenancy addendum
  - **Tenant:** One copy of the lease and one copy of the tenancy addendum
  - **PHA family file:** One copy each of the contract, the lease, and the tenancy addendum.

OTHER RENT ISSUES

OTHER FEES AND CHARGES

CFR 982.510(a)

- The cost and value of meals and supportive services may not be included in the calculation of rent to owner.

CFR 982.510(b)

- The lease may not require the family members to pay charges for meals and supportive services, and nonpayment of such charges is not grounds for termination of tenancy.

CFR 982.510(c)

- 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.

NEGOTIATING RENT TO OWNER

CFR 982.506

- The owner and the family negotiate the rent to owner. At the family's request the PHA must help the family negotiate the rent to owner.

CFR 982.509

RENT CONTROLLED UNITS

- In addition to the rent reasonableness limits set by HUD, the amount of rent to owner may also be subject to rent control limits under state or local law.

LIHTC UNITS WITH HCV

FR Notice 6/25/14

- In low-income housing tax credit (LIHTC) units, if the rent requested by the owner exceeds the rents for non-voucher families in the project, the PHA must perform a rent reasonable determination. In addition, the PHA must cap the rent at the payment standard for that bedroom size. In other words, in these projects rent to owner is the lesser of the reasonable rent or the PHA's payment standard.
- For example, if the LIHTC rent is $600 for comparable, unassisted units in the project, the PHA determined reasonable rent is $625 and the PHA payment standard for that bedroom size is $650, the rent would be $625 since that is the lesser of the reasonable rent or the payment standard.
- If the rent to owner does not exceed the rent for other comparable, unassisted units in the project, a rent reasonableness determination is not required; however, the PHA may elect to conduct an analysis anyway. Further, there is no payment standard limitation on these units.
- For example, if the LIHTC rent is $600 for comparable, unassisted units in the project, the owner requests a rent of $600, and the PHA payment standard for that bedroom size is $550, the rent would be $600 since the payment standard limitation does not apply.

HOME UNITS WITH HCV

- A rent reasonableness determination is not required for HOME units provided that the rent to owner does not exceed the rent for other LIHTC or HOME units in the project that are not occupied by families with HCV assistance.

Notice PIH 96-63

UNITS LEASED IN HOME-ASSISTED PROJECTS

- The HOME program provides grants to states and localities (participating jurisdictions) that use these grants to fund a wide range of activities that build, buy and/or rehabilitate affordable housing for rent or homeownership, or provide direct rental assistance to low-income households.

CFR 92.252(a)

- There is no regulatory prohibition against HCV families leasing units in HOME-assisted projects
  - The maximum allowable rent for an HCV family in a HOME-assisted unit cannot exceed the applicable HUD-published HOME rent limit (Low/High)

CFR 92.252(b)(2)

- The HOME program requires that the rents charged for HOME-assisted units be affordable to low and very low-income households. There are two HOME rent limits:
  - **High HOME Rents** are the maximum rents that can be charged to low-income households. These are based on the lesser of:
    - The Section 8 Fair Market Rents (FMRs) for existing housing; or
    - Thirty percent of the adjusted income of a family whose annual income equals 65 percent of median income.

OTHER SUBSIDIZED PROJECTS

CFR 982.521

- The rent to owner for a program and tenancy in an insured or noninsured Section 236 project, a Section 515 project of the Rural Development Administration, a Section 202, or a Section 221 (d) (3) below market interest rate (BMIR) project is the basic rental charge minus any utility allowance for tenant-paid utilities.

LEASE PURCHASE AGREEMENTS

CFR 982.317

- A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. So long as the family is receiving rental assistance, all tenant-based program requirements apply.
- Any homeownership premium included in the rent to the owner must be absorbed by the family, such as:
  - Increment of value attributable to the value of the lease-purchase right
  - Agreement such as an extra monthly payment to accumulate a down payment or reduce the purchase price.
- Any homeownership premium paid by the family to the owner must also be excluded when the PHA determines rent reasonableness.

PROTECTING TENANTS AT FORECLOSURE ACT

Title III, Section 304 of Public Law 115-174;
Title VII of Public Law 111-22

- Tenants in foreclosed properties are protected from eviction under federal law.
- All affected tenants are entitled to at least 90 days advance notice to vacate the property.
- Tenants under a fixed-term lease are protected through the lease term.
  - If the “successor in interest”/new owner will occupy the property, the lease may be terminated subject to the 90-day notice requirement.

- The law also provides additional protections for HCV participants:
  - The new owner takes title subject to the lease and HAP contract.
  - The need to vacate the unit prior to resale does not constitute “other good cause” for termination during the term of the lease.
  - If the new owner will occupy the property, the lease and HAP contract may be terminated with 90 days’ notice.
- State laws offering greater protection to tenants take precedence over the new law.
- Information about the Protecting Tenants at Foreclosure Act (PTFA) was deleted from the HAP contract in July 2019. The PTFA was reinstated in May 2018. It’s unknown whether HUD will revise the HAP contract to reflect this.

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PHA-OWNED HOUSING

CFR 982.352(b)(1)

- PHA-owned housing may be assisted under a tenant-based program only under the following conditions:
  - The family has been informed by the PHA, both orally and in writing, that the family has the right to select any eligible dwelling unit, and a PHA-owned unit is freely selected by the family without PHA pressure or steering
  - The unit is not ineligible housing (i.e., a public housing unit)
  - During assisted occupancy, the family does not benefit from any form of housing subsidy prohibited by HUD in CFR 982.352(c).
- The PHA must obtain the services of an independent agency to perform the following PHA functions as required under the program rule:
  - Determine rent reasonableness (and communicate the results to the family and the PHA)
  - Assist the family in rent negotiation
  - Monitor NSPIRE compliance (and communicate the results to the family and the PHA).
- The independent agency must be approved by HUD.
  - The independent agency may be a unit of local government for the PHA's jurisdiction, unless the PHA is a unit of such local government.
  - The independent agency may be another HUD-approved independent agency.
- The PHA may compensate the independent agency from the PHA's administrative fee income for services performed.
- The family may not be charged by the PHA or independent agency for the services provided by the independent agency.

CHAPTER 6 Annual Activities

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Analyze and describe the processes associated with annual activities, including:
    - Determining PHA and family responsibilities regarding annual reexams and interims, including which interims are mandatory and which are discretionary, and the effective dates of reexams
    - Discussing how PHA policy and HUD regulations affect moves
    - Identifying when NSPIRE inspections must occur, timeframes for corrections and the consequences of owner and family noncompliance

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Section 6.1 Annual Reexaminations

CFR 982.516

- The PHA must conduct a reexamination of family income and composition at least annually.
  - Typically, the process begins 90 to 120 days before the effective date of the reexam.
- Reexaminations may be conducted in person or remotely under certain circumstances, depending on PHA policy.

CFR 5.609(c)(1)

- The PHA 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 PHA uses a streamlined income determination. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination. 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 must be considered.
- However, income from assets, however, is always anticipated, irrespective of the income examination type.

Industry Practice

- Specific procedures for conducting annual reexaminations are not dictated by HUD, and thus vary from PHA to PHA.

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- The PHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period. Typically, PHAs notify families approximately 120 days in advance of the scheduled reexamination effective date and use the same procedures for obtaining and verifying information that were used at admission. However, PHAs should follow HUD's requirements regarding the use of HUD's Enterprise Income Verification (EIV) system. This system allows the PHA to compare data provided by the family to available Up-Front Income Verification data. (More on verifications later in Rent Calculation).
- The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition. PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time.

HCV Guidebook, Ch 12

- Families and owners must be notified in writing of the results of the reexamination and the effective date of the change.
- PHAs should give families reasonable notice of any rent increase.

CFR 982.552

- Families who fail to cooperate with the PHA in providing the necessary information may be terminated from the HCV program.

CFR 5.903(e)(1)(ii)(B)

- The Screening and Eviction Rule governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency." PHAs are only permitted to use such records for screening applicants for admission. The regulations specifically exclude the use of these records to terminate assistance for participants.

CFR 5.903(b) and 5.901(c)

- These limitations do not apply to criminal conviction information searches from nonfederal sources. A PHA may use nonfederal sources to conduct criminal background checks of program participants.

Notice PIH 2012-28

- Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state.

24 CFR 5.903(f) and 5.905(d)

- If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA 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.

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CHANGES IN FAMILY UNIT SIZE (VOUCHER SIZE)

24 CFR 982.505(c)(6)

- **Changes effective 12/2/24 and earlier:** 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.
- **Changes effective 12/3/24 and later:** 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 may be used to determine the payment standard immediately at the family's first regular reexamination following the change in family unit size.

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Section 6.2 Interim Reexaminations

CFR 982.516

- Interim reexaminations must be conducted in accordance with policies in the PHA administrative plan.
- The PHA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.

CFR 5.609(c)(1)

- The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination.

NON-INTERIM REEXAM TRANSACTIONS

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. A new action type on Form HUD 50058 is used: *Interim Reexamination/Mid-Cycle Changes.* When this action type is selected, the PHA must respond to question 2w, and state either: PHA is conducting an interim reexam or PHA is not conducting an interim reexam but must report other changes. 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;

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- 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/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).
- HCV only: Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases)
- HCV only: Implementing an update to the payment standard that does not correspond with an interim or annual reexamination

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CHANGES AFFECTING INCOME OR EXPENSES

- A family may request an interim determination of family income for any change since the last determination.
- The PHA must conduct an interim within a reasonable time after the family request or when the PHA becomes aware of the change. What constitutes a reasonable time may vary based on the amount of time it takes to verify information (generally, should not be longer than 30 days after changes in income are reported.
- This includes when the household does not add or remove a household member but experiences other kinds of changes to existing household member characteristics.
  - E.g., if the head of household turns 62 and the family becomes an elderly family, or an adult member who is not the head of household, cohead, or spouse enrolls in college and becomes a dependent.

INTERIM DECREASES

- Even though the family may request an interim at any time, the PHA may decline to conduct an interim reexamination of family income if the PHA estimates the family's adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income or a lower threshold established by the PHA.
  - PHAs may set a lower amount than 10% in PHA policy (e.g., 5%)
  - The PHA may perform interims for decreases of any amount.
  - PHAs may not set a higher amount than 10% or establish a dollar figure threshold amount instead of a percentage threshold.

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- Remember, the PHA must perform an interim for a decrease in adjusted income of any amount if the household adds or removes family members.

EXAMPLE
• Martha Allen's adjusted income is $8,475. • She just incurred a medical expense of $500. • She is requesting the PHA conduct an interim decrease to account for the new expense. • The threshold to trigger an interim decrease for Martha is $847.50. • Adjusted income of $8,475 x 10% • Since the expense does not meet the 10% threshold, the PHA may, but is not required to, decline to conduct the interim.

INTERIM INCREASES

- PHAs must not process an interim reexam for income increases that result in less than a 10% increase in adjusted income.

EXAMPLE
• Mandy Alexander's adjusted income is $24,520 • Her TANF benefits just increased • Her adjusted income is now $26,520 - $2,000 increase • $24,520 x 10% = $2,452 • $2,452 or more is the threshold for conducting an interim • Since the increase is less than 10%, the PHA may not perform an interim

- PHAs must conduct an interim reexam 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 some exceptions.

- 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.

EXAMPLE
• Maya May's annual last year was effective 11/1. • The PHA begins processing Maya's annual for this year in September with an 11/1 effective date. • On 10/1 Maya reports that her TANF benefits have increased by $30 per month and this amount meets the 10% threshold for increases. • While the change meets the 10% interim increase threshold, the PHA may decline to perform the interim since her next annual will be effective in one month.

- 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.

- 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.

  - If PHA policy states that the PHA will not conduct an interim for increases in earned income when there was a previous interim decrease, the PHA will not perform interims for any increases in earned income, regardless of the amount.

- If PHA policy states that the PHA will conduct an interim for increases in earned income when there was a previous interim decrease, the PHA will perform interims for increases in earned income when the 10% threshold is met.

EXAMPLE 1: EARNED INCOME
• Greg Garland lives alone. • At his annual reexam in May, he had a job earning $32,200 a year. This was his only source of income. • Greg did not qualify for deductions and his adjusted income is $32,200 at the time. • 3 months later, he gets a promotion and a raise to $40,000 a year. • Since Greg has not had an interim since his last annual, the PHA may not consider the increase in his earned income and will not perform an interim. • Since the PHA may not consider the increase in earned income, the 10% threshold is not applicable. • The PHA will consider his raise when conducting his next annual reexam.

EXAMPLE 2: EARNED INCOME

- Tameka Barnes lives alone.
- At her annual, she had a job earning $25,000 a year. This was her only source of income.
- Tameka did not qualify for deductions, and her adjusted income was $25,000.
- 3 months later, she lost her job.
- The PHA conducted an interim decrease and made Tameka zero income.
- 2 months later, Tameka got a new job earning $30,000 and reported this to the PHA.
- Since Tameka previously had an interim decreases when she lost her job, the PHA may consider her increase in earned income depending on PHA policy.
- If PHA policy calls for performing an interim in this situation:
  - The PHA must determine if her increase meets the 10% threshold
  - For Tameka the answer is yes because she was zero income
  - The PHA will process an interim
- If PHA policy does not call for performing an interim in this situation:
  - The PHA will not perform an interim
  - The 10% threshold does not apply
  - The PHA will consider the new income from her job at her next annual reexam

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- For changes in unearned income, the PHA does not consider whether or not an interim was previously performed. The PHA only considers whether the 10% threshold has been met.
- For changes in earned income, the PHA first considers whether or not the family has had an interim since their last annual.

EXAMPLE: UNEARNED INCOME

- Maria Media was receiving $90 per month in child support at her last annual in March. This was her only source of income. Her annual income was $1,080.
- Maria has two children, and her adjusted income was $30 at the time.
  - $30 (adjusted income) x 10% = $3
  - Maria's increase meets the threshold since it's more than $3.
- In July, she reports to the PHA that her child support has increased to $200 per month.
- The PHA must determine if the increase meets the 10% threshold.
- $120 (adjusted income) x 10% = $12
- Maria's increase meets the threshold since it's more than $12.
- The PHA conducts an interim.

- 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.
- 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.

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EXAMPLE: CUMULATIVE INCREASES

- At their last annual effective June 1, the Mosberg family's adjusted income was $35,909, based on earned income of the HOH and two dependent deductions.
- In August, the HOH reported she received a raise at work, increasing her annual earned income by $2,650. She also recently started receiving monthly child support payments of $150 ($1,800 annually).
- She reported no other changes.
- While the combined increase of earned income (wages) and unearned income (child support) is a 12.3%, the PHA must look at the earned and unearned income changes independently to determine if an interim should be performed.
- The increase in earned income represents a 7% increase.
- The increase in unearned income represents a 5% increase.
- The PHA documented in the tenant file that the family reported the change, but an interim was not performed.
- In November, the HOH reported that her monthly child support payments increased again, from $150 to $325 ($3,900 per year).
- She certified no other changes to income or deductions.
- The change in unearned income represents a 10.8% increase in adjusted income (based on the 6/1 annual).
- The PHA must perform an interim, but only for the change in unearned income.
- The PHA will continue to disregard the increase in earned income until the family's next annual reexam.

CHANGES IN FAMILY COMPOSITION

- PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens.
  - For example, within 10 business days of the change.
- The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition.

24 CFR 982.551(h)(2)

- 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)(4)

- 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 or other household member (live-in aide or foster child).

24 CFR 982.403

- If a change in family size causes a violation of space standards, 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 982.551(h)(3)

- Families must promptly notify the PHA if any household member no longer lives in the unit. Because household members are considered when determining the family unit (voucher) size, the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

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Notice PIH 2023-27, Revision 3

- Revision 3 of Notice PIH 2023-27, dated April 16, 2026, requires PHAs to conduct interim reexaminations when a household adds or removes household members, including family members, foster adults, foster children, and live-in aides, regardless if the change in household composition results in a decrease, increase, or no change in the family's annual adjusted income.
  - The exception is if adding or removing household members would require an interim reexamination for an increase in annual adjusted income during the last three months of a family's recertification period, and the PHA has a written policy not to conduct interim reexaminations under these circumstances.
- When conducting an interim reexamination for an increase due to the addition or removal of a household member, the PHA must not consider 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.
- For increases in unearned income, the PHA adds the unearned income to the household's income when the household member is added.
- For all decreases, the PHA processes the decrease when the household member is added.

INTERIM SCENARIOS

Scenario 1

- The Walsh family is adding a live-in aide
- The family is adding a new HH member who has no income and does not qualify for any deductions
- Processes an interim to add them

Scenario 2

- The Green family informed the PHA they just had a baby
- The family is adding a new HH member who has no income BUT qualifies for deductions
- Process an interim to add them
- Process the interim decrease regardless of the amount

Scenario 3

- The Ortiz family is adding their adult son who receives SSI
- The family is adding a new HH member who has unearned income and this causes an increase
- Process an interim to add them
- Add the unearned income regardless of the amount of the change

Scenario 4

- Julie Chen got married and her new husband works part-time
- The new HH member has earned income and this causes an increase
- Process the interim to add them
- Follow PHA policy on increases in earned income between annuals

Scenario 5

- Frank Greer got married and his new wife collects SSI and works part-time
- The family is adding a new HH member who has both earned and unearned income
- Process the interim to add them
- Follow PHA policy on increases in earned income between annuals
- Add the unearned income regardless of the amount of the change

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FAMILY REPORTING

24 CFR 982.516(d)

- 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.
- 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.
- HUD recommends as a best practice that PHAs maintain documentation of all reported decreases and increase of any size in the family's file, including those that did not result in an interim.

EFFECTIVE DATE OF CHANGES

CFR 982.516(c)(4)

- If the family reports a change in family income or composition timely:
  - For rent increases, the PHA must provide the family with 30 days advance 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 month after the change.

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- If the family failed to report a change in family income or composition timely:
  - For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change.
  - For rent decrease, the PHA must implement the change no later than the first rent period following completion of the interim reexamination or may apply the rent decrease retroactively, except that a decrease may not be applied prior to the later of the first of the month following:
    - The date of the change leading to the interim reexamination; or
    - The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).

EXAMPLE: FAILURE TO REPORT INCREASES
• Maria Martin's last annual was in August. • On 11/1 her child support increased by 15%. • Under PHA policy, Maria was required to report the increase within 10 days. However, she failed to report the change until February. • The increase will be retroactive to 12/1.

CFR 982.551 & CFR 982.552

EXAMPLE: FAILURE TO REPORT DECREASES
• Harry Halloway was receiving unemployment at his last annual reexam effective 4/1. He stopped receiving benefits in July, but he failed to report this timely and reported the decrease on 11/10. • The PHA processes an interim in November after he reports the decrease. • The PHA applies the decrease prospectively to December 1 which is the first rent period following the completion of the interim.

- Rather than applying retroactive decreases in all cases, the PHA may adopt a policy to describe the conditions under which retroactive decreases will be applied.
  - For example, extenuating circumstances that may inhibit timely reporting or a natural disaster
- 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.
- Failure to report required changes or to supply any information requested by the PHA for use in an interim reexamination of family income and composition is grounds for termination of assistance.

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Section 6.3 Moves with Continued Assistance

- A family may move to a new unit if:

CFR 982.354(b)

  - The assisted lease for old unit has terminated, including termination because:
    - PHA has terminated HAP contract due to owner's breach, or
    - Lease has terminated by mutual agreement of owner and tenant.
  - The owner has:
    - Given tenant notice to vacate
    - Commenced an action to evict the tenant, or
    - Obtained a court judgment or other process allowing owner to evict tenant.
  - The tenant has given rightful notice of lease termination.

CFR 982.354(b)(4)

  - The move was necessary to protect health or safety of a victim of domestic violence. This includes situations in which the family moved without notice to the PHA.

CFR 982.354(c)

- A family may move one or more times with continued assistance, either inside the PHA's jurisdiction or under portability.
- The PHA may establish:
  - Policies that prohibit any move by the family during the initial year of the lease term
  - Policies that prohibit more than one move by the family during any one-year period.

- While a PHA may limit the number of times a family moves with assistance within any one-year period, it may not limit the timing of that move.
  - A PHA may not establish policies that restrict a family's move to their date of annual reexamination.

CFR 982.354(d)

- The family must notify the PHA and owner before moving from the old unit.
- If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time.
- If the family wants to move to a new unit outside of the PHA's jurisdiction, the notice must specify the area where the family wants to move.

CFR 982.354(e)

- The PHA may deny permission to move:
  - If the PHA does not have sufficient funding for continued assistance
    - The PHA must provide written notification to the local HUD office within 10 business days of determining it is necessary to deny moves to a higher-cost unit based on insufficient funding
  - In accordance with denial or termination of assistance regulations

Industry Practice

- If the family fails to find an acceptable unit, they may continue to receive assistance in the current unit (assuming the unit continues to meet program requirements and the owner agrees, if notice has been given).

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OWNER HAP WHEN FAMILY MOVES

CFR 982.311(d)

- If the family moves out of the unit, the PHA may not make any HAP to the owner for any month after the month the family moves out.
- The owner may keep the HAP for the month the family moved out of the unit.
- If a family moves with continued assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit.
  - Overlap of HAP for the old unit for the month the family moves and the first HAP for the new unit is not considered a duplicative housing subsidy.

CONTINUED ASSISTANCE WHEN FAMILY BREAKS UP

CFR 982.315(a)

- PHA determines which members continue to receive assistance if the family breaks up.

CFR 982.315(a)(2); 5.2007(e)

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains the assistance.
  - If the PHA receives conflicting certifications in which family members accuse each other, the PHA may determine the true victim by requiring third-party documentation.
  - As part of the PHA's Emergency Transfer Plan (ETP), the PHA may choose to provide a voucher to facilitate the emergency transfer without having first terminated assistance to the perpetrator.

CFR 982.315(a)

- The administrative plan must state PHA guidelines regarding how to decide who remains in the program.

CFR 982.315(b)

- Factors to be considered in making a decision may include:
  - Whether the assistance stays with family members remaining in the original assisted unit
  - The interest of minor children or of ill, elderly, or disabled family members
  - Whether the family members are forced to leave the unit as a result of actual or threatened physical violence against the family members by a spouse or other member of the household
  - Other factors specified by the PHA.

CFR 982.315(c)

- If a court determines disposition of property between members of an assisted family in a divorce or separation under a settlement or judicial decree:
  - The PHA must abide by the court's decision.

Section 6.4 Conducting Periodic and Special Inspections

- The HQS inspection protocol sunsets 10/1/25.
- HQS will be replaced by the National Standards for the Physical Inspection of Real Estate (NSPIRE).
- However, the regulations on inspection administration will continue to use "HQS" and "housing quality standards" not "NSPIRE" when discussing inspections in the HCV program.
- HUD defines housing quality standards (HQS) as the minimum quality standards developed by HUD in accordance with 24 CFR 5.703 (NSPIRE) for the HCV program, including any variations approved by HUD for the PHA.

CFR 982.405(a)

- The PHA must inspect the unit leased to a family prior to the initial term of the lease (initial inspection) (unless the PHA adopts the NLT option discussed in an earlier chapter); at least every 24 months (every 3 years for small, rural PHAs) (periodic inspection); the PHA must conduct supervisory quality control inspections; and at other times as needed to determine that the unit meets housing quality standards.
- PHAs may establish a policy for performing unit inspections biennially rather than annually. The policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually.

CFR 982.405(c)

- In scheduling inspections, the PHA must consider complaints and any other information brought to the attention of the PHA. If a participant or local government official notifies the PHA of a potential deficiency, the following inspection timeframes apply:
  - Life-threatening must inspect and notify owner within 24 hours
  - Non-life-threatening — must inspect and notify owner within 15 days
  - Extraordinary circumstances — HUD approves an exception
- For the HCV program, Life-Threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies, known as Severe and Moderate, must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. Under NSPIRE, some deficiencies are considered Low, that even if present, result in a pass and would only be noted by the inspector for information purposes.

CFR 982.405(d)

- The PHA must notify the owner of any deficiencies identified during the inspections.
- Alternative inspections: The PHA may rely on inspections conducted for other housing programs such as the HOME or LIHTC programs as well as inspections performed by HUD provided the property receives a passing score. The PHA must identify alternative standards in the administrative plan. This is applicable to both initial and periodic inspections.

CFR 982.405(e)

- The PHA may not charge the family for the initial inspection or reinspection of the unit.

CFR 982.405(f)

- The PHA may not charge the owner for inspections prior to the initial term of the lease or for the first annual or biennial inspection.

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- The PHA may establish a policy for charging the owner a reasonable fee for failed reinspections in two situations:
  - If the owner notifies the PHA that repairs have been made, but the previously identified deficiencies have not been corrected
  - If the time allowed for repairs has elapsed and the deficiencies have not been corrected
  - The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit as defined in 24 CFR 982.4.

MAINTENANCE: FAMILY AND OWNER RESPONSIBILITIES

- A unit is not in compliance with housing quality standards if the PHA or other inspector authorized by the state or local government determines, based upon an inspection, that the unit has housing quality standards deficiencies, notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate time frame.

CFR 982.404(a)(1) through (4)

OWNER RESPONSIBILITIES

- For HAP contracts executed or renewed on June 6, 2024 or later, the owner must maintain the unit in accordance with housing quality standards.
- In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control (other than damage resulting from ordinary use), the PHA may waive the owner's responsibility to remedy the violation and hold the family responsible (see Family Responsibilities).
- The HAP to the owner may not be withheld or abated if the owner responsibility has been waived.

- For HAP contracts executed or renewed on June 6, 2024, or later, a PHA may withhold assistance payments for units that have deficiencies once the owner has been notified in writing of the deficiencies.
  - The PHA's administrative plan must identify the conditions under which the PHA will withhold the HAP
  - In this case, if the unit is brought into compliance during the applicable cure period, the PHA must resume assistance payments and provide payments to cover the time period for which the payments were withheld
- The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period.
  - If HQS deficiencies are not corrected timely, the PHA must stop (abate) housing assistance payments beginning no later than the first of the month following the specified correction period or terminate the HAP contract (24 CFR 985.3(f)(1))
  - Abatement means stopping HAP payments to an owner with no potential for retroactive payment (24 CFR 982.4(b))

EXAMPLE 1

- July 7: Unit fails for NLT conditions; owner responsibility. The PHA notifies the owner that the deficiencies must be corrected by August 7. If this doesn't happen, HAP will be abated effective September 1.
- The deficiency is not corrected by August 7. The HAP is abated effective September 1.
  - If the deficiency is corrected before September 1, the HAP abatement will be rescinded and payment will continue.
- September 16, the deficiency is corrected. The abatement will be released. The owner will only receive payment for September 16 through September 30. No payment will be made for September 1 through September 15.

EXAMPLE 2
• July 7: Unit fails for a life-threatening condition. The PHA notifies the owner that the deficiency must be corrected by July 8, or the HAP will be placed in abatement effective August 1. • The deficiency is not corrected by July 8. The HAP is abated effective August 1.

  - The PHA must notify the family and the owner that it is abating payments and, if the unit does not meet housing quality standards within 60 days (or a reasonable longer period established by the PHA), the PHA will terminate the HAP contract for the unit and the family will have to move to receive continued assistance

- During any abatement period, the family continues to be responsible only for its share of the rent. The owner cannot collect abated HAP from the family.
- An owner may not terminate the tenancy of a family due to the PHA withholding or abating the HAP for housing quality standards deficiencies that are not repaired timely.
  - However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family.
- During the period that assistance is abated, the family may terminate tenancy by notifying the owner and the PHA.
  - If the family chooses to terminate tenancy, the HAP contract will automatically terminate on the effective date of tenancy termination or the date the family vacates the unit, whichever is earlier. The PHA must promptly issue the family its voucher to move.

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- If an owner fails to make required repairs within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA must terminate the HAP contract. In this case, the PHA must issue the family its voucher at least 30 days prior to the termination of the HAP contract. The family must be provided at least 90 days following the termination of the HAP contract to lease a new unit, although the PHA may provide a longer period as the PHA determines is reasonably necessary

EXAMPLE
• June 15: Unit fails for NLT conditions. The PHA notifies the owner that the PHA will reinspect the unit within 30 days, and if the unit doesn't pass, an abatement will be placed effective 8/1. • Unit doesn't pass reinspection • PHA sends a notice to the owner that the unit failed again, and an abatement will be placed effective 8/1. • 8/1: The PHA abates HAP. The PHA notifies the owner that the HAP contract will terminate effective 9/30 if deficiencies are not corrected. • 9/1: The PHA notifies the owner that the HAP contract will terminate effective 9/30. The PHA issues the family a voucher expiring on 12/31 (30 days before 9/30 + 90 days of search time = 120 days).

- In this situation, if the family is unable to lease a new unit within the term of the voucher and the PHA owns or operates public housing, the PHA must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.

- PHAs may assist families relocating due to the HAP contract being terminated as a result of the owner failing to make required repairs within the required time frame in finding a new unit, including using up to 2 months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by the PHA based on their locality.
- The PHA must assist families with disabilities with locating available accessible units in accordance with 24 CFR 8.28 (a)(3).

FAMILY RESPONSIBILITIES

- The family may be held responsible for a breach of housing quality standards caused by any of the following:
  - Tenant-paid utilities not in service;
  - Failure to provide or maintain appliances owned by the family; and
  - Damage to the dwelling unit or premises caused by a household member or guest beyond ordinary wear and tear.
- If the PHA has waived the owner's responsibility to remedy the violation, the following applies:
  - If the housing quality standards breach caused by the family is life-threatening, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 24 hours of notification.
  - For other family-caused deficiencies, the family must take all steps permissible under the lease and state and local law to ensure the deficiency is corrected within 30 calendar days of notification (or any PHA-approved extension).

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- If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair and may enter into a repayment agreement with the family.
- If the family has caused a breach of housing quality standards, the PHA must take prompt and vigorous action to enforce the family obligations no later than the first of the month following the specified correction period (24 CFR 985.3(f)(1)).
- The PHA will begin the termination process. If the deficiency is not corrected within the time period specified by the PHA, the PHA may terminate assistance for the family in accordance with 24 CFR 982.552.
    - If the deficiency is corrected before the scheduled date of program termination, the PHA may rescind the termination.

Learning Activity 6-1: Annual Activities Knowledge Check

1. When must the PHA conduct an interim for an increase in income?

2. With the exception of VAWA, when an assisted family splits up, the voucher goes to:
   a. Whoever notifies the agency about the breakup
   b. Whoever is left in the assisted unit
   c. Whoever originally signed up for the assistance
   d. It's up to the PHA, depending on the policy stated in their administrative plan

3. For an interim recertifications, when a family reports timely, *increases* in the family's share are effective the first of the month following the required 30-day notice period.
   a. True
   b. False

4. For an interim recertifications, when the family reports timely, rent *decreases* are effective the first of the month after the change.
   a. True
   b. False

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5. If the family fails to report a change in family income or composition that would result in a rent increase, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change.
   a. True
   b. False

6. PHA policy in the administrative plan may state that the PHA will conduct an interim reexamination for a decrease of any amount in the family's income.
   a. True
   b. False

7. The PHA must conduct a criminal background check on all adult family members as part of the family's annual reexamination.
   a. True
   b. False

8. If a family is responsible for an HQS/NSPIRE deficiency, the family must make the repair themselves within 30 days.
   a. True
   b. False

9. Families may only request to move at their annual reexam.
   a. True
   b. False

10. When calculating income at an interim reexamination, the PHA _____.
    a. Must anticipate income for the upcoming 12-month period
    b. Must use past income for the previous 12-month period

Notes

CHAPTER 7 Terminations

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Analyze reasons for terminations, including:
    - Discussing the mandatory and the discretionary policy decision points for terminations of family assistance
    - Identifying the reasons for termination of HAP payments or contracts with the owner
    - Discussing the basic requirements for informal hearings including when hearings are required

TERMINATIONS

CFR 982.552

- The PHA may terminate assistance for a participant because of a family's action or failure to act as described in the regulations.
- Termination of assistance for a participant may include:
  - Refusing to enter into a HAP contract or to approve a lease
  - Terminating HAP under an outstanding HAPC
  - Refusing to process or provide assistance under portability

CFR 982.301
CFR 982.552

- The PHA must give the family a written description of:
  - Family obligations under the program
  - The grounds on which the PHA may terminate assistance because of family action or failure to act
  - PHA informal hearing procedures

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Section 7.1 Requirements to Terminate Assistance

CFR 5.218
CFR 5.232
CFR 5.514
CFR 982.552

- The PHA must terminate program assistance:
  - If a family was evicted from housing assisted under the program for serious violation of the lease;
  - If SSN disclosure requirements are not met;
  - If any family member fails to sign and submit consent forms;
    - This does not apply if applicants or participants or their family members revoke their consent for the PHA to access financial records unless the PHA has established a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission.
  - If a family member does not establish citizenship or eligible immigration status;
  - If the PHA determines that a family member has knowingly permitted an individual ineligible for assistance (under Restriction on Assistance to Noncitizens Regulations) to reside in the assisted housing unit of the family member;
    - Such "termination" shall be for a period of not less than 24 months
    - Does not apply if the ineligible individual was considered in calculating any prorated family assistance.

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Notice PIH 2012-28

- If the PHA discovers that a member of an assisted household who was admitted after June 25, 2001, was subject to a lifetime registered sex offender requirement at admission;
  - The PHA must offer the family the opportunity to remove that individual from the household
- If the PHA has determined that any member of the household has ever been convicted for drug-related criminal activity for manufacture of production of methamphetamine on the premises of federally assisted housing.
- If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

Supplemental Guidance to Student Eligibility Final Rule, Federal Register, 4/10/06

- When a household contains eligible and ineligible students, the eligible students will not be terminated.
- The PHA must issue a voucher for eligible members to move with continued assistance.
- They may remain in same unit ("lease in place") if any ineligible student moves out of the assisted unit.

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Section 7.2 Authority to Terminate Assistance

CFR 982.553

- The PHA's standards must allow for termination of a family's assistance if the PHA determines that:
  - Any household member is currently engaging in any illegal use of a drug;
  - A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
  - A household member has violated family obligations not to engage in any drug related or violent criminal activity; or
  - A household member's alcohol abuse or pattern of abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

CFR 982.552

- The PHA may terminate program assistance for any of the following grounds:
  - The family violates any family obligation under the program;
  - If any family member has been evicted from federally assisted housing in the last five years;
  - If a PHA has ever terminated assistance under the program for any family member;
  - If any family member committed fraud, bribery, or another corrupt or criminal act regarding any federal housing program;
  - If the family currently owes rent or other amounts to any PHA in connection with HCV or public housing assistance, including;
    - Not having reimbursed any PHA for amounts paid to an owner on behalf of the family; or
    - Breaching a repayment agreement with the PHA

- If the family has engaged in or threatened abusive or violent behavior toward PHA personnel;
- If a family has been engaged in criminal activity or alcohol abuse as described in 982.553.

24 CFR 984.101(d)

- Note that PHAs are not allowed to terminate assistance for failure to comply with the obligations of the Family Self-Sufficiency (FSS) contract of participation.

ASSET LIMITATION

- PHAs have discretion whether to apply the asset limitation to participants at annual and interim recertification.
- The PHA must adopt policies regarding the asset limitation and may adopt a written policy of:
  - Total non-enforcement
  - Enforcement
  - Limited non-enforcement
  - Exceptions for some families
- The PHA may choose not to enforce the asset limitation at all for any participants. If the PHA adopts a total non-enforcement policy, it must apply the same for all families on the program.
  - The PHA may not terminate a VASH family for noncompliance with the asset limitation.
- If the PHA chooses to adopt a policy of enforcement, at every recertification, the PHA determines whether families are out of compliance with the asset limitation. If a family is out of compliance, the PHA must initiate termination of assistance within 6 months of the recertification effective date. Families are not given an opportunity to cure noncompliance.

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- If the PHA chooses to adopt a policy of limited enforcement, noncompliant families are given an option to cure. The PHA specifies a time period to cure in policy of up to but no longer than 6 months (except as a reasonable accommodation). If family remains out of compliance after cure period, the PHA must initiate termination of assistance within 6 months of the effective date of the recertification.
- The PHA may also identify exception policies in the administrative plan. Families in a specified exception category (or categories) may be subject to total non-enforcement or limited enforcement. This may be combined with an enforcement policy for families not in an exception category or the PHA may give families in an exception category longer to cure noncompliance (though not more than 6 months except as a reasonable accommodation) than those who are not in an exception category.

CONSIDERATION OF CIRCUMSTANCES

- Denial and termination decisions are subject to reasonable accommodation considerations for persons with disabilities and are subject to fair housing and equal opportunity provisions in the regulations as well as protections for victims of domestic violence, dating violence, sexual assault, human trafficking, and stalking.
- When deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA may consider:
  - The seriousness of the case
  - The extent of participation/culpability of family members
  - Mitigating circumstances relating to a family member's disability
  - The effects of denial/termination of assistance on other family members who were not involved in the action or failure to act

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- The PHA may impose a requirement that family members who participated in or were culpable for the action or failure not reside in the unit.
- For denial/termination decisions based on illegal use of drugs or alcohol abuse by a household member no longer engaged in such behavior, the PHA consider whether the household member
  - Is participating in,
  - Has successfully completed a supervised drug or alcohol rehabilitation program, or
  - Has otherwise been successfully rehabilitated.
    - The PHA may require evidence of successful rehabilitation.

24 CFR 982.553

- The PHA may terminate assistance for criminal activity if the PHA determines the household member has engaged in the activity based on a preponderance of evidence.
  - Regardless of arrest or conviction.
- When determining whether to deny admission or terminate assistance based on criminal activity in cases when there is a record of arrest, the PHA may obtain a copy of the police report associated with the arrest and consider the circumstances of the arrest, including:
  - Any statements made by witnesses or the applicant not included in the police report
  - Whether criminal charges were filed
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
  - Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

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TERMINATIONS STUDY CHART

Mandatory	Discretionary
SSN disclosure requirements not met (other than noncontending)	Family violates any family obligations
Family member fails to sign required consent forms	Evicted from federally assisted housing in the last five years
Family member does not establish citizenship or eligible immigration status (other than noncontending)	PHA has ever terminated the assistance of any family member
Family knowingly permits an individual ineligible for assistance to reside in the unit (24 months)	Family commits fraud, bribery, or another corrupt or criminal act regarding a federal housing program
Fails to meet student rule requirements	Currently owes rent or other amounts to any PHA
Evicted for a serious violation of the lease	If the family has engaged in or threatened violent or abusive behavior towards PHA personnel
Convicted of manufacture of methamphetamine on the premises of federally assisted housing	Violated obligations not to engage in criminal activity
The PHA discovers that a member of an assisted household who was admitted after June 25, 2001, was subject to a lifetime registered sex offender requirement at admission	Violent criminal activity
	Abuse or pattern of abuse of alcohol that threatens health, safety, or right to peaceful enjoyment
	Currently engaged in drug-related criminal activity
	Pattern of illegal drug use by any household member that interferes with health, safety, or peaceful enjoyment
	Family fails to meet requirements of the asset limitation

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Section 7.3 Termination of HAP Contract

ZERO HAP FAMILIES

CFR 982.455
HAP Contract, B.4.

- The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

HCV GB 12-6

- If a reexamination results in a zero HAP, the family may continue as a program participant for six months from the reexamination effective date. During that period, the HAP contract between the PHA and the owner remains in effect.
- If the family circumstances change during the six-month period and the family again needs assistance, the PHA conducts an interim reexamination and reinstates assistance.
- At the end of the six months, if the subsidy has not been restored, the HAP contract will terminate.
- The PHA must provide the family and the owner at least 30 days advanced notification of the proposed termination and the family with an opportunity to request an informal hearing.

ABSENCE FROM THE UNIT

CFR 982.312

- The family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstances or for any reason. PHA policy may allow for a shorter period of time.
- Housing assistance payments terminate if the family is absent for longer than the maximum period permitted by HUD regulations and PHA policy. The HAP contract and assisted lease also terminate.
- Absence means no family member is residing in the unit.

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- PHA administrative plan states PHA policy on:
  - What information the family must supply related to family absence from the unit
  - How the PHA determines whether/when the family may be absent
  - What techniques will be used to verify family occupancy or absence
  - Any provision for resumption of assistance after an absence, including readmission.

TERMINATION OF HAP CONTRACT WHEN UNIT IS TOO SMALL

CFR 982.403

- If the PHA determines that a unit does not meet space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible.
- If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract.
  - The PHA must notify the family and owner of the termination.
  - The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner.
  - The family may move to a new unit.

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Section 7.4 Informal Hearings

CFR 982.555

- PHAs must provide program participants with the opportunity for an informal hearing to consider whether certain PHA decisions relating to the individual family are in accordance with the law, HUD regulations, and PHA policies.
  - The PHA must notify the family that the family may ask for an explanation of the PHA's determination of
    - The family's annual or adjusted income and its use in computing the HAP
    - The appropriate utility allowance for tenant-paid utilities
    - Family unit size (voucher size) under the PHA's subsidy standards.
  - If the family does not agree with the PHA's determination, the family may request an informal hearing on the decision.
- Before terminating housing assistance payments under an outstanding HAP contract, the PHA must give opportunity for informal hearing for a determination to terminate assistance:
  - Because of the family's action or failure to act
  - Because the participant family has been absent from the assisted unit for longer than allowed.
- When taking an action that qualifies for a hearing, the PHA must give the family prompt written notice that must state:
  - Reasons for the decision
  - If the family does not agree with the decision, they may request an informal hearing
  - The deadline for the family to request the informal hearing

HEARING PROCEDURES

- Where a hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the family's request.
- Hearings may be conducted in person or remotely, depending on PHA policy. See Notice PIH 2020-32 for the requirements regarding conducting remote informal hearings.
- If the hearing is to be conducted remotely, the PHA must determine whether any technological barriers exist and attempt to resolve those barriers prior to the remote hearing.
  - If the tenant does not have proper technological access that will allow them to fully participate in the hearing, then the remote hearing should be postponed or an in-person alternative must be provided
  - PHA procedures for conducting informal hearings must be stated in the PHA's administrative plan. If the PHA is going to implement remote hearings, it must update its administrative plan to include provisions to allow for the use of mail, electronic mail, telephone, and video call, as appropriate.

DISCOVERY

- Prior to the hearing, the family must be given opportunity to examine and copy at their own expense any PHA documents that are relevant to the hearing.
  - If the PHA does not make the document available upon the family's request, the PHA may not rely on the document at hearing.

- Prior to the hearing, PHA procedures may require the family to give the PHA the opportunity to examine (at PHA offices) and copy (at PHA's expense) any family documents relevant to the hearing.
  - If the family does not make the document available upon the PHA's request, the family may not rely on the document at hearing.

Notice PIH 2020-32

  - If the hearing is to be conducted remotely, the documents must be provided via mail, email, or on a secure website or cloud-base server.

HEARING OFFICER AND HEARING PROCEEDINGS

- At its own expense, the family may be represented by a lawyer or other representative.
- The hearing may be conducted by any PHA designated person, other than a person who made or approved the decision or a subordinate of this person.
- The hearing office may regulate the conduct of the hearing in accordance with the PHA hearing procedures.
- The PHA and the family must be given the opportunity to present evidence and to question any witness.
  - Evidence may be considered without regard to admissibility under rules of evidence applicable to judicial proceedings.
- The person who conducts the hearing must issue a written decision stating the reasons for the decisions, and a copy of the decision will be promptly furnished to the family.
  - Determinations will be based on a preponderance of evidence presented at hearing.

- The PHA is not bound by a hearing decision if:
  - The PHA was not required to provide an opportunity for informal hearing
  - The matter exceeds the authority of the person conducting the hearing
  - The decision is contrary to HUD regulations or requirements or contrary to federal, state, or local law.
- If the PHA determines it is not bound by a hearing decision, the PHA must promptly notify the family of the determination and the reasons for the determination.
- Hearings are not required for:
  - Discretionary administrative determinations
  - General policy issues or class grievances
  - Establishment of the PHA's utility allowance schedule
  - Determination not to approve an extension of the voucher term
  - Determination not to approve a unit or tenancy
  - Determination that the selected unit is not in compliance with NSPIRE, including because of family size or composition
    - The PHA must provide the opportunity for an informal hearing for a decision to terminate assistance for a family-caused breach of NSPIRE standards
  - The PHA's determination to exercise or not to exercise any remedy against the owner under a HAP contract.

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Learning Activity 7-1: Terminations Knowledge Check

1. Travis Barker is a participant in the HCV program. He feels that his PHA's policy requiring participants to notify the PHA if they will be absent from their unit for 30 days or more is unfair to other participants on the program. The PHA must allow Travis to have an informal hearing to negotiate this policy issue.
   a. True
   b. False

2. The HAP contract automatically terminates _____ calendar days after the last housing assistance payment to the owner.
   a. 180
   b. 60
   c. PHA policy

3. The PHA must terminate the family's assistance if the family is evicted from the unit for violating the lease:
   a. True
   b. False

4. Mike and Carroll Brady are participants in the HCV program who just got married. Their family size increases from 4 to 9 people. Per their PHA's subsidy standards, they currently reside in a 3-bedroom unit. The PHA issues them a voucher to move to a larger unit because their current unit failed to meet NSPIRE space standards due to overcrowding. The Brady family is struggling to find an available unit with enough bedrooms. The PHA:
   a. Must terminate the family's assistance if they can't find an appropriate size unit
   b. Must withdraw the larger voucher and let the family stay in their current unit indefinitely since it would be too burdensome for the family to move
   c. Allow the family to remain in the unit while they try to find a larger unit with the assistance of the PHA
   d. Transfer the family to an available public housing unit

5. George Michaelson (age 21) is a participant in the HCV program. He is head of household, and he lives alone. George decides to enroll at the local community college as a part-time student. George is not a veteran and has never been married. George reports to the PHA that his parents still claim him as a dependent on their taxes. The PHA verifies that George's parents are over income in their jurisdiction.
   a. The PHA must terminate his assistance
   b. The PHA does not have grounds to terminate his assistance since George is only a part-time student
   c. Since George is a program participant, not an applicant, the student rule doesn't apply to him
   d. As long as George's parents certify that they won't give George any financial assistance, even though they will still claim him as a dependent on their taxes, George may continue receiving assistance

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6. The Garcia family was absent from their unit for 200 consecutive calendar days because they were spending the winter in Florida with family. The PHA terminated the family's assistance. The Garcias requested an informal hearing. The hearing officer decided that the PHA's policy on family absence from the unit was overly restrictive, and the Garcia family should be readmitted to the program. Is the PHA bound by this decision?
   a. Yes
   b. No

7. When the PHA is no longer paying HAP because of an increase in participant income, the HAP contract must immediately be terminated.
   a. True
   b. False

8. At their annual reexam, the Fernandez family's annual income is above the low-income limit (80 percent of area median). The PHA:
   a. Must terminate the family
   b. May terminate the family
   c. May not terminate the family
   d. Can consider the length of their waiting list when determining whether or not to allow over-income families to stay on the program

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Notes

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CHAPTER 8 Portability

LEARNING OUTCOMES

- Upon completion of this chapter, you should be able to:
  - Explain and discuss the concept of portability, the challenges it presents, and the expectations for housing authorities on both ends of the process, including:
    - Identifying restrictions on portability for program applicants
    - Discussing denying portability due to insufficient funding and the consequences for improper denials
    - Identifying and working through the responsibilities of the family, initial housing agency (IHA), and receiving housing agency (RHA) through the portability process
    - Discussing the proper billing schedule and the consequences for violation of HUD billing guidelines

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Section 8.1 Introduction

DEFINITIONS

CFR 982.4
CFR 982.636
Notice PIH 2016-09

- Portability is the process of renting a dwelling unit or purchasing a dwelling with Section 8 tenant-based voucher assistance outside the jurisdiction of the initial PHA.
- The following terms are used when discussing portability:

CFR 982.4

Initial PHA (IHA)

- A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA.
- A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

CFR 982.4

Receiving PHA (RHA)

- 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.

CFR 982.4

Jurisdiction

- The area in which a PHA has authority under state and local law to administer the voucher program.

CFR 982.355(e)

Administer

- The receiving PHA must administer assistance for the family. To cover assistance for a portable family, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees.

CFR 982.4

Absorption

- The point at which a receiving PHA starts making assistance payments with funding under its consolidated ACC, rather than billing the initial PHA.

PIH 2016-09

  - The receiving PHA does not absorb the family into its own program until the receiving PHA has executed a HAP contract on behalf of the family.
  - False processing of portability paperwork to address a PHA's utilization or leasing problems is prohibited.
  - If the family does not move to a different unit and is not placed under a HAP contract in the receiving PHA's jurisdiction, the receiving PHA cannot absorb the family.

CRF 982.4

Admission

- The point at which an applicant family becomes a participant in the voucher program. The date used for this purpose is the effective date of the first housing assistance payment (HAP) contract for the family (the first day of the initial lease term).

LIMITATIONS UNDER THE PORTABILITY PROVISIONS

CFR 982.2

- Portability does not apply to project-based programs.

CFR 982.353(b)

- An initial PHA must not provide portability assistance for a participant family if the family has moved out of its assisted unit in violation of the lease.
  - There is an exception to this rule under VAWA, which is if the family moves out in violation of the lease in order 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.

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CFR 982.354(c), Notice PIH 2016-09

- A PHA may establish policies in its administrative plan prohibiting any move (both within and outside the PHA's jurisdiction) by a family during the initial lease term.
  - Once again, exceptions may be made under VAWA if the move is necessary to protect victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

CFR 982.354(c)

- A PHA may also establish policies in its administrative plan prohibiting more than one move (both within and outside the PHA's jurisdiction) during any one-year period.

Notice PIH 2016-09

- PHA may not restrict moves to the time of the family's annual reexamination.

RESIDENCY

CFR 982.353(c)

- If neither the head of household nor the spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of a PHA at the time the family first submitted an application for assistance with the PHA, the following applies during the 12-month period from the time the family is admitted to the program:
  - The family may lease a unit anywhere in the PHA's jurisdiction
  - The family does not have a right to portability
  - The IHA may choose to allow portability during this period.
- If the family's initial PHA approves, the family may lease a unit outside the initial PHA's jurisdiction under portability procedures during the 12 months following admission.

EXAMPLE 1 – EFFECT OF RESIDENCY RESTRICTION

The Johnson family lives in Charleston, South Carolina where the waiting list is six years long. They would like to be assisted in Charleston; however, they decide to apply to the Jacksonville, Florida HCV program instead because the waiting list in Jacksonville is only six months long. The family plans to port back to Charleston, SC once they reach the top of Jacksonville's waiting list.

The family is placed on Jacksonville's waiting list. While on the Jacksonville list, the Johnson family moves to Jacksonville and resides there when final eligibility is determined.

While the family would like to port to Charleston, they can only lease in Jacksonville for the first year after being admitted to the HCV program unless the Jacksonville PHA (the initial PHA) agrees to allow the family to exercise portability.

EXAMPLE 2 – EFFECT OF RESIDENCY RESTRICTION

The Delacy family lives in San Diego and applies for housing assistance. The family moves to Los Angeles for a while and later moves up the coast to San Francisco. While living in San Francisco the family is notified by the San Diego PHA that its name has come to the top of the waiting list. The Delacys go to San Diego to submit their full application for eligibility. When they receive their voucher, they may lease a unit anywhere within the jurisdiction of the San Diego PHA or outside it with portability.

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WHERE A FAMILY MAY MOVE

CFR 982.353(b)

- A voucher holder or participant family has the right to receive tenant-based voucher assistance to lease a unit outside the jurisdiction of an initial PHA anywhere in the United States in the jurisdiction of another PHA administering a tenant-based assistance program.

CFR 982.355(a)

- When a family moves under portability to an area outside the jurisdiction of the family's initial PHA, another PHA (the receiving PHA) must administer assistance for the family if a PHA with an HCV program has jurisdiction in the area where the unit is located.

CFR 982.355(b)

- If there is more than one PHA with jurisdiction in an area where a family wishes to exercise portability, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA.
  - If the family prefers not to select the receiving PHA, the initial PHA may do so on behalf of the family.

INCOME LIMIT RESTRICTIONS FOR NEW ADMISSIONS

CFR 982.353(d)

- For admission to the voucher program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.
  - If an applicant family exercises portability, the income limit of the receiving PHA is used.

CFR 982.201(b)(4)

- If a PHA's jurisdiction contains more than one income limit area:
  - For voucher issuance (eligibility), the PHA uses the highest applicable income limit
  - For admission to the program, the PHA applies the income limit for the area in which the family proposes to initially lease a unit.

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EXAMPLE

Mile High PHA is conducting an eligibility determination on the Waters family, a family of three. The family's annual income is $12,900. Mile High PHA's income limit for a family of three is $13,000. The Waters family is income eligible, and Mile High PHA issues a voucher.

The Waters wish to utilize the portability feature of the voucher. Mile High PHA must determine that the Waters are income eligible in the receiving PHA's jurisdiction.

For example, with an annual income of $12,900, in which of the following areas is the Waters family income eligible?

- Area A's income limit = $12,500
- Area B's income limit = $14,000
- Area C's income limit = $11,900
- Area D's income limit = $13,000

Answer: Areas B and D

INCOME LIMITS AND PARTICIPANTS

CFR 982.353(d)(2)

- Income eligibility is not redetermined for a participant family moving to another PHA's program under portability procedures.

INSUFFICIENT FUNDING ISSUES

- The PHA may not deny a move within the jurisdiction or under portability simply because it is to a higher cost unit/area. A PHA may only deny moves to a higher cost unit/area due to insufficient funding if certain conditions apply. These are detailed in the Continued Learning section at the end of this chapter.

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Section 8.2 Family and PHA Responsibilities

RESPONSIBILITIES OF THE FAMILY

- The family must identify the area to which they are moving and, if more than one PHA has jurisdiction in that area, must select the receiving PHA
  - The family may request the initial PHA select the receiving PHA

CFR 982.355(c)

- The family must promptly contact the receiving PHA and must comply with the receiving PHA's procedures for incoming portable families.
- The family must submit a request for approval of tenancy to the receiving PHA during the term of the receiving PHA's voucher.

RESPONSIBILITIES OF INITIAL PHA

CFR 982.355(c)(9); Notice PIH 2016-09

- If the portable family was not already receiving assistance in the initial PHA's tenant-based program, the initial PHA must determine whether the family is income eligible for admission to the receiving PHA's voucher program under the RHA's income limits.
  - If an applicant family is not income eligible in the area to which the family wishes to move, the initial PHA must deny the move and inform the family that it may not move to the area in question.
  - Income eligibility is not redetermined when a participant family (a family that is already under a HAP contract) exercises portability.
- Once a family informs the initial PHA of their desire to move under portability and where they want to move, the initial PHA determines the family's eligibility to move, based on the initial PHA's policies.

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CFR 982.355(c)(3)
Notice PIH 2016-09

- The initial PHA must advise the family which PHAs have jurisdiction in the area the family wishes to move and, if there are multiple PHAs with jurisdiction in that area, advise the family to select the receiving PHA.
  - The initial PHA must provide the family with contact information for all PHAs that serve the area.
  - The initial PHA may, but is not required to, provide more details, such as whether the receiving PHA administers an FSS or homeownership program.

24 CFR 984.306(b) and (c)

    - If the porting family is participating in the FSS program and the receiving PHA either does not have an FSS program or continued participation in FSS is not possible, the initial PHA must discuss options that may be available to the family, such as modification or termination of the FSS contract, or locating a receiving PHA that has the capacity to enroll the family into its FSS program.
  - If the initial PHA is selecting the receiving PHA per the family's request, the initial PHA is not required to provide contact information for all PHAs in the area.
- PHAs may search the PHA contact list at HUD's website to determine if there are multiple PHAs in the area to which the family wishes to move.
- The initial PHA must inform the family how differences in the receiving PHA policies may affect the family's assistance, including:
  - Screening criteria
  - Subsidy standard
  - Payment standards
  - Utility allowances
  - Any other elements of the portability process that may impact the family's assistance.

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- The initial PHA is not required to research how receiving PHA policies might specifically impact the family, but to make the families aware that policies may be different and have an impact on the family's assistance.
- Prior to approving the move under portability, the initial PHA must contact the receiving PHA in writing via email or other confirmed delivery method to determine whether the receiving PHA will bill or absorb.

Notice PIH 2016-09

  - Email is the preferred method of communication.
  - PHAs are encouraged to establish a generic portability email, and controls of the mailbox, to avoid misplacement of portability emails due to staffing changes.

CFR 982.355(c)(6)
Notice PIH 2016-09

- If the move is approved, the initial PHA must issue the family a voucher to move, and if it has not already done so, advise the family how to contact and request assistance from the receiving PHA.
- This responsibility includes:
  - Providing the family with the name and telephone number of the staff person responsible for working with incoming portability families
  - Informing the family about any procedures related to appointments for voucher issuance that the receiving PHA has shared with the initial PHA.
  - Simply referring the family to HUD or a website for information on the receiving PHA's address does not fulfill the responsibilities of the initial PHA under the program regulations.
- Form HUD-52665 contains a line that the initial PHA uses to identify the receiving PHA to which the initial PHA is referring the family.

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- The initial PHA must notify the receiving PHA to expect the family.
  - The initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email.
  - Initial PHAs may fulfill this requirement during their initial contact with the receiving PHA to determine whether the voucher will be billed or absorbed, or as part of a separate communication.

CFR 982.355(c)(7)
Notice PIH 2016-09

- The initial PHA must give the receiving PHA the following documents:
  - Form HUD-52665, Family Portability Information, with Part I completed
  - The family's most recent form HUD-50058, Family Report
  - Related verification information for the current HUD-50058, including EIV printout
    - The IHA must have a signed and valid HUD-9886-A on file before transmitting income verification of EIV.
  - A copy of the family's voucher
  - Optional: Family self-sufficiency (FSS) information if the family is participating in FSS
- In the case of an applicant, the initial PHA has not completed a form HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the PHA must provide the family information and income information to the receiving PHA in a format similar to that of HUD-50058 so that the information is easily available for use by the receiving PHA.

Notice PIH 2016-09

- The initial PHA must submit any special purpose voucher codes on line 2n of the form HUD-50058, including:
  - HUD-VASH
  - Non-Elderly Disabled (NED)
  - NED Category 2 awarded under FY 2009 NOFA (NHT)
  - Family Unification Program Family (FUPF)
  - Family Unification Program Youth (FUPY)

Family Portability Information

Housing Choice Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 4/30/2026)

OMB Burden Statement. The public reporting burden for this information collection is estimated to be up to 0.50 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is required to exercise portability within the housing choice voucher program. Assurances of confidentiality are not provide d under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Privacy Act Statement. The Department of Housing and Urban Development (HUD) is authorized to collect the information on this form by 24 CFR 982.355. Collection of this information, including SSN and annual income, is voluntary. The information is used to standardize the information submitted to the receiving Public Housing Agency (PHA) by the initial PHA. In addition, the information is used for monthly billing by the receiving PHA. Failure to provide any of the information may result in delay or rejection of a family port.

Part I Initial PHA Information and Certification
Instructions: This portion of the form is to be completed by the initial PHA for a family that is moving out of the initial PHA's jurisdiction under the portability procedures.

1. Head of Household Name				2. Head of Household Social Security Number
3. Voucher Number (if applicable)	4. Bedroom Size	5. Issuance Date (mm/dd/yyyy)	6. Expiration Date (mm/dd/yyyy)	7. Date of Last Income Examination (mm/dd/yyyy)

8. Annual income if new admission (not currently a voucher participant) $ _____

9. Date by which initial billing must be received (90 days following the expiration date of the initial PHA voucher) (mm/dd/yyyy) _____

10. Initial PHA administrative fee rate $ _____
(Note: include proration, if applicable. For example, if the proration factor for the year is 79% and your column B rate is $60, enter $47.4)

11. 80% of initial PHA ongoing administrative fee (line 10 x 0.8) $ _____

12. Receiving PHA to which family has been referred: _____.

Attachments:

a. A copy of the voucher issued by the initial PHA.

b. **The most recent form HUD-50058 and copies of all related verification information for the current form HUD-50058**. (Note: This is the latest form HUD-50058 completed for either an applicant, a new admission, an annual reexamination, or an interim redetermination. It is not the form HUD-50058 that the initial PHA completes to report the portability move-out.)

Certification Statement:
The family ☐ is a current program participant or ☐ is not a current program participant but is income-eligible in the receiving PHA's jurisdiction (see line 8 above), and the voucher was issued in accordance with the program regulations. Please issue the family a receiving PHA voucher that does not expire before 30 days from the expiration date indicated in Item 6 (the expiration date on the initial PHA's voucher) for the appropriate bedroom size (based on the receiving PHA's policies). I certify that the information contained on Part I of this form and the attached documents provided by my agency are true and correct. My agency will promptly reimburse amounts paid on behalf of the above family within 30 calendar days of receipt of Part II of this form and thereafter ensure that subsequent billing payments are received by your agency no later than the fifth working day of each month. Failure to comply with these payment due dates may result in the transfer of the family's voucher in accordance with program rules and regulations.

Name of Certifying PHA Official _____ Type Full Name and Address of Initial PHA below

Signature _____

Initial PHA Contact Name _____

Phone Number _____ Email _____

Form Submission Date (mm/dd/yyyy) _____

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Part II-A Receiving PHA Information and Certification
Instructions: The **receiving PHA** must always complete Part II-A.

1. Head of Household Name		2. Head of Household Social Security Number
3. Voucher Bedroom Size (per receiving PHA's policies)	4. HAP Contract Number (if applicable)	

5. Receiving PHA administrative fee rate $ _____
(Note: include proration, if applicable. For example, if the proration factor for the year is 79% and your column B rate is $60, enter $47.4)

Certification Statement:
I certify that the information contained on Part II of this form and, if applicable, the attached form HUD-50058, is true and correct and that my agency will promptly remit any overpayment to your agency.

Name of Certifying PHA Official _____ Type full Name and Address of Receiving PHA below

Signature _____

Receiving PHA Contact Name _____

Phone Number _____ Email _____

Form Submission Date (mm/dd/yyyy) _____

Part II-B Family Status, Initial HAP Contract Execution and Billing Changes After HAP Contract Execution
Instructions: for initial billings, Part II-B must be completed by the receiving PHA and received by the initial PHA within 90 days following the expiration date of the initial PHA's voucher. For changes in the family status or the billing amount, Part II-B must be completed and sent within 10 working days from the effective date of the change. **The receiving PHA does not submit the billing form each month unless the monthly amount due changes or both PHAs agree to a different billing schedule that requires a more frequent billing submittal.**

Check all statements below that apply:

☐ 1. The above family has failed to submit a request for tenancy approval for an eligible unit within the allotted time period. You may therefore reissue your voucher to another family and, if applicable, modify any records concerning local preference usage and income targeting requirements. **STOP. Do not complete remainder of form.**

☐ 2. We have executed a HAP contract on behalf of the family and are absorbing the family into our own program effective _____(mm/dd/yyyy). You may reissue your voucher to another family. **STOP. Do not complete remainder of form.**

☐ 3. We executed a HAP contract on _____ (mm/dd/yyyy) with an effective date of _____ (mm/dd/yyyy) and are billing your agency. The effective date of the family's annual reexamination will be _____ (mm/dd/yyyy). **A copy of the new form HUD-50058 is attached to this form. No other documentation is required.** (Note: Receiving PHAs are required to complete and submit a form HUD-50058 for families moving into their jurisdiction under portability. The receiving PHA may elect to conduct a special recertification of the family to conform the dates of the unit inspection and recertification, but is not required to do so by HUD in order to complete the form HUD-50058 for a portability move-in.) **Complete line 10 below.**

☐ 4. The HAP amount has changed effective _____ (mm/dd/yyyy) for the family because of: (Check all applicable items. **Complete line 10 below).**

- ☐ annual recertification
- ☐ interim/special recertification
- ☐ change in payment standard
- ☐ the family moved to another unit in the receiving PHA jurisdiction.
- ☐ other: (specify)

Comments continued on separate page Yes ☐ No ☐

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☐ 5. The HAP payments have been abated effective _____ (mm/dd/yyyy). Please suspend the HAP to owner portion from your payment effective _____ (mm/dd/yyyy) until further notice. **STOP. Do not complete remainder of form.**

☐ 6. The HAP payments that were abated beginning _____ (mm/dd/yyyy) have resumed effective _____ (mm/dd/yyyy). Please resume payment of HAP effective _____ (mm/dd/yyyy). (Note: do not complete remainder of form unless line 4 above also apply. In such cases, complete line 10 below.)

☐ 7. We will no longer bill your agency because we are terminating the family's participation in the program or the family is voluntarily leaving the program.

Billing arrangement termination effective date:_____ (mm/dd/yyyy).

Reason for termination: (specify)

STOP. Do not complete remainder of form.

☐ 8. We are absorbing the family into our program and terminating the billing arrangement effective: _____ (mm/dd/yyyy).
STOP. Do not complete remainder of form.

☐ 9. The HAP contract has been terminated effective _____ (mm/dd/yyyy) and no new HAP contract has yet been executed on behalf of the family.

The family:

☐ will not be remaining in our jurisdiction and has been referred to your agency.

☐ intends to remain in our jurisdiction. The family's voucher expires _____ (mm/dd/yyyy). (Note: submit this form again once you know the outcome of the family's search).

STOP. Do not complete remainder of form.

☐ 10. Billing Information

Regular Billing Amount:

a. Monthly HAP amount due
(line 12s or 12af of form HUD-50058) _____

b. Ongoing admin fee
((1) lesser of: Part I, line 11 or Part II, line 5, or (2) amount otherwise agreed upon) _____

c. **Total regular monthly billing amount**
(sum of lines a and b) $ 0.00

Additional Amount Due, If Applicable:

d. Prorated HAP to owner from _____to _____ _____

e. Hard-to-house fee, if applicable _____

f. Other (explain) _____

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g. Total additional amount (sum of lines d, e and f) $ 0.00

Total Billing Amount:

h. Payment Due This Billing Submission (sum of lines c and g) $ 0.00

(After this submission, billing amount is amount recorded on line c, unless otherwise notified by the receiving PHA.)

Comments:

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CFR 982.355(e)(2)

- The initial PHA must promptly reimburse the receiving PHA for the full amount of the housing assistance payments made by the receiving PHA for the portable family.
  - The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

CFR 982.355(e)(3)

- The initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee.
  - If administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill.
  - The administrative fee amounts may be used for the entire calendar year to avoid the need for PHAs to recalculate their portable fees each quarter, unless otherwise instructed by HUD.
  - If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

CFR 982.355(e)(5)

- The initial and receiving PHAs must comply with financial procedures required by HUD, including the use of HUD-required billing forms.
- The initial and receiving PHAs must also comply with billing and payment deadlines under the financial procedures.

Notice PIH 2016-09

- The initial PHA may not terminate or delay making payments under existing billing arrangements as a result of over leasing or funding shortfalls at the initial PHA's program. PHAs may only terminate HAP contracts as the result of insufficient funding in accordance with 24 CFR 982.454 to which they are a party.

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- Initial PHAs may voluntarily request that HUD transfer units from their ACC to a receiving PHA's ACC in order to eliminate portability billing arrangements.
- Receiving PHAs are required to send an updated form HUD-50058 with every reexamination. If the receiving PHA fails to send the updated form HUD-50058 on time, the initial PHA must continue paying based on the last form HUD-50058 received, unless otherwise instructed by HUD.
  - Initial PHAs should make a first attempt at resolving any late submissions with the receiving PHA.
  - Should such attempt fail to result in a resolution, initial PHAs may seek assistance from their local field office. If this fails, the initial PHA may seek absorption of the vouchers. See Notice PIH 2016-09 for specific instructions. PHAs are reminded to document all communications between agencies and to retain a record of all transactions between PHAs.
- HUD may, in certain cases, require the initial PHA to honor a late submission of the reexamination documents (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).

RESPONSIBILITIES OF RECEIVING PHA

CFR 982.355(c)(3)
Notice PIH 2016-09

- The receiving PHA must promptly respond to the initial PHA's inquiry as to whether it will bill or absorb
  - HUD recommends use of email for this function
  - If the receiving PHA states that it will absorb the family, the receiving PHA cannot later decide to bill

- The receiving PHA cannot refuse to assist an incoming family or direct them to a neighboring PHA for assistance
  - The receiving PHA may not have a policy to deny an incoming portability family if there is not a set number of days left on the initial PHA's voucher
- The receiving PHA can only refuse to assist a portable family after receiving written approval from HUD
  - HUD may exempt a receiving PHA from the requirement to assist incoming portable families under certain circumstances
  - The receiving PHA sends a request to the director of the local field office addressing the circumstances that prevent the receiving PHA from processing incoming portable families
  - Requests are meant only for extreme circumstances, such as the receiving PHA being in a presidentially declared disaster area

CFR 982.355(c)(10)

- Administration of the voucher must be in accordance with the receiving PHA's policies. This includes Moving to Work (MTW) agencies. The receiving PHA's selection preferences do not apply and the receiving PHA's waiting list is not used.

CFR 982.355(c)(9)

- The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's tenant-based program.

Notice PIH 2016-09

- The receiving PHA may rescreen families who move into their jurisdiction under portability, applying their own policies for denial/termination of assistance
  - For example, the receiving PHA may have a policy to terminate or deny HCV assistance if any member of the family has been evicted from federally assisted housing in the last five years.

- The receiving PHA may refuse to assist the portability family by referring the family back to the initial PHA or by denying/terminating the family's assistance.
- The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening process is complete.
- Denying the portability move in accordance with screening policies does not require HUD approval.
    - If the receiving PHA refuses the portability move, the initial PHA may assist the family in the initial PHA's jurisdiction or allow the family to port to another PHA's jurisdiction.
- If the receiving PHA refuses to assist the portability family due to the family's failure to pass the receiving PHA's screening, the receiving PHA must offer the family an informal hearing (participant family) or an informal review (applicant family).

Notice PIH 2016-09

- 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.
- The receiving PHA should not process the family if the initial PHA's voucher has already expired when the PHA receives the paperwork from the initial PHA but should refer the family back to the initial PHA.
    - The initial PHA decides whether to extend the term of the initial PHA's voucher (and the billing deadline).
    - If the initial PHA decides to extend the voucher, the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline.

24 CFR 982.555(b)
Notice PIH 2016-09

- No informal review or hearing is required when a voucher has expired without the family leasing a unit.

CFR 982.355(c)(12) and (13)

- The receiving PHA must
  - Determine the family unit size for a portable family based on its own subsidy standards
  - Issue a voucher to the family
    - The voucher may not expire before 30 calendar days from the expiration date of the initial PHA voucher.
      - Example: Initial PHA voucher expiration is 10/30/16. The receiving PHA's voucher may not expire before 11/29/16.

CFR 982.355(c)(11)
Notice PIH 2016-09

- The receiving PHA may choose to conduct a new income reexamination for a participant family. However, it may not delay issuing the family a voucher or otherwise delay approval of a unit. However, the receiving PHA may take subsequent action against the family based on the results (e.g., recalculation of the HAP payment based on updated information).
  - For applicant families, the receiving PHA may delay issuing a voucher or otherwise delay unit approval only if necessary to determine income eligibility.
  - The receiving PHA may always delay approval of a unit or issuance of a voucher if the family refuses to comply with the PHA's procedures (such as completing disclosure forms or certifications).
  - In any case where the receiving PHA refuses to process or provide assistance under portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR 982.554 and 982.555.

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CFR 982.355(c)(13)
Notice PIH 2016-09

- The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration date of the initial PHA's voucher. The receiving PHA decides whether to extend the voucher term.
  - The receiving PHA may provide additional search time to the family beyond 30 days following the expiration date of the initial PHA voucher either when it initially issues its own voucher or by subsequently extending the term of its own voucher.
  - Any extensions of search time provided by the receiving PHA's voucher are only valid for the family's search in the receiving PHA's jurisdiction.
  - If the receiving PHA provides the family with search time beyond 30 days following the expiration date of the initial PHA's voucher, the receiving PHA is required by regulation to inform the initial PHA of the extension.
  - The receiving PHA should also consider the billing deadline.
  - 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 lease approval, execute a HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email). If the initial billing is not received by the initial PHA by the deadline, the receiving PHA is required to absorb the voucher, unless the initial PHA accepts the late billing.

CFR 982.355(c)(16)
Notice PIH 2016-09

- The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

- If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes either to return to the initial PHA or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA.
  - The voucher of record for the family is once again the voucher originally issued by the initial PHA.
  - 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.

CFR 982.355(c)(7)
Notice PIH 2016-09

- In all cases the receiving PHA completes Part II of form HUD-52665 and sends it to the initial PHA. If the receiving PHA intends to bill the initial PHA, it completes Part II of form HUD-52665 and sends it along with a copy of the family's form HUD-50058 to the initial PHA.
  - The receiving PHA must maintain any special purpose voucher codes (VASH, NED, FUPF/FUPY, NHT) on line 2n of the form HUD-50058 as long as it is billing for the family. Receiving PHAs are required to administer special purpose vouchers in accordance with any HUD-established alternative program requirements.
- 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 overleasing.
- The receiving PHA may also absorb a portable family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA.

Notice PIH 2016-09

- The receiving PHA must send the initial PHA a copy of the updated form HUD-50058 at each reexamination as long as the receiving PHA is billing the initial PHA on behalf of the family.
  - Receiving PHAs send the updated form HUD-50058 regardless of whether there is a change in the billing amount.
  - A copy of form HUD-50058 must also accompany the submission of form HUD-52665 reporting any changes in the billing amount.
  - The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days following the effective date of the reexamination.
    - Receiving PHAs are strongly encouraged to send the updated form as soon as the family's reexamination is complete. This serves as a "reconciliation" to assist both PHAs in fulfilling accounting and record-keeping responsibilities.
  - If the receiving PHA fails to send the updated form HUD-50058 on time, the initial PHA must continue paying based on the last form HUD-50058 received, unless otherwise instructed by HUD.
- If the receiving PHA terminates the billing arrangement by absorbing the family into its program after having billed the initial PHA, or when the HAP contract is terminated for any reason, the receiving PHA must send an updated form HUD-52665 to the initial PHA within 10 business days following the effective date of the termination of the billing arrangement.

- The receiving PHA may not retroactively absorb portable families for any period more than 10 working days prior to notification to the initial PHA.
  - However, an exception may be made if an initial PHA requests that the receiving PHA absorb ported vouchers as a way of avoiding terminations of assistance due to a funding shortfall, the receiving PHA may retroactively absorb families for which the receiving PHA was previously billing. In these cases, the receiving PHA reimburses the initial PHA for payments back to the effective date of the absorption, but only for the current calendar year.
- In all cases, if the receiving PHA receives payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (HAP and administrative fees) to the initial PHA.
- If billing payments continue for billing arrangements no longer in effect, HUD may:
  - Direct the receiving PHA not to utilize their administrative fee reserve account
  - Reduce the receiving PHA's administrative fees by up to 10 percent of the monthly billing amount (HAP and administrative fee) for each month the payment continued after the billing arrangement was terminated.

DENIAL OR TERMINATION OF THE FAMILY

CFR 982.355(c)(17)

- At any time, the initial PHA or the receiving PHA may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552 and 982.553.

Section 8.3 Portability Billing

- The initial billing submission must be received by the initial PHA no later than 90 days following the expiration date of the voucher issued by the initial PHA.
  - In cases where the suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher term.
  - If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 days. If the initial PHA has not received the portability form within the new 30-day deadline, the initial billing is late.
  - The initial PHA is not required to honor any billing notice not received by the billing deadline. If the initial PHA has not received the billing notice by the deadline and will not accept a late billing, the initial PHA must notify the receiving PHA of this decision in writing.
  - If the initial PHA still subsequently receives a late billing notice on behalf of the family, it simply returns 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.

PAYMENT OF THE INITIAL BILLING

- The initial PHA must pay the first billing amount due within 30 calendar days of receipt of Part II of the form HUD-52665. Payment must be provided in a form and manner that the receiving PHA is able and willing to accept.

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PAYMENT OF SUBSEQUENT BILLING PAYMENTS

- The initial PHA must make payment each month the arrangement is in effect.
- Subsequent monthly billing payments must be received by the receiving PHA no later than the fifth working day of each month.
- If the initial PHA fails to make the monthly payment to the receiving PHA by the fifth working day of the month, the receiving PHA should make a first attempt at resolving with the initial PHA.
- If the RHA cannot resolve billing issues with the IHA, receiving PHAs may seek assistance from their local PIH field office. If this also fails, the receiving PHA may seek transfer of the units and funding. PHAs should document all communications between agencies and retain a record of all transactions between agencies. See Notice PIH 2016-09 for full instructions on how to request transfer of the units.

MID-MONTH MOVES

- Because administrative fees are earned for each program unit under contract as of the first day of the month, if the effective date of the HAP is on a date other than the first of the month, the receiving PHA cannot bill for administrative fees for that month.
- Receiving PHAs may bill for the prorated HAP amount to the new landlord for a partial month. Receiving PHAs may also bill for the full HAP paid to the previous landlord if the receiving PHA's policy calls for paying full HAP to the previous landlord on the move-out month.

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Notification of Change in Billing Amount or Other Action

- The receiving PHA is required to send a new form HUD-52665 along with the form HUD-50058 to report any change in the billing amount. The timing of the notice of the change in 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. However, under no circumstances should the notification be later than 10 working days following the effective date of the change in the billing amount.
    - Changes include termination for any reason, change in billing amount and absorption.

OVERVIEW OF THE PROCESS VOUCHER ISSUANCE
• The family informs the IHA of the proposed portability move.
• The IHA determines the family's eligibility for move.
• The IHA determines if there is more than one PHA with jurisdiction over the area where the family wishes to move. May search in HUD's PHA contact list at: https://www.hud.gov/program_offices/public_indian_housing/pha/contacts
• The IHA informs the family of how the RHA's policies may impact the family's housing assistance. If multiple PHAs with jurisdiction, the IHA provides the family with contact information for all potential RHAs and advises the family to choose the RHA. If the family wishes the IHA to select the RHA, the IHA selects the RHA.
• The IHA contacts the RHA about the family and provides the family with the RHA information; asks the RHA if it intends to administer or absorb
• The IHA sends the RHA 52665 billing form, 50058, and verification information
• If the voucher has expired when the family arrives, the RHA refers the family back to the IHA
• If the IHA extends the voucher (and the billing deadline), the process continues
• The RHA issues the voucher with an expiration date no less than 30 days following the expiration date of the IHA voucher within *two weeks of receipt of port docs*
• The RHA notifies the IHA if the voucher is extended
• The family finds a unit and the RHA executes the HAP contract
• The RHA bills or absorbs the family into its own program
- If the RHA absorbs the family, the RHA provides the IHA with the effective date within *10 working days*
• The IHA must receive billing within *90 days of expiration of the IHA's voucher*
- The RHA is required to absorb family if it misses the deadline unless OK'd by the IHA
- The IHA must pay the RHA within *30 days from receipt of billing*
- The IHA sends ongoing payments to ensure receipt by the RHA by fifth working day of each month
• The RHA sends the IHA 50058 for all completed reexaminations within *10 working days of effective date of change*
• The RHA notifies the IHA if the RHA terminates assistance or absorbs within *10 working days*

Learning Activity 8-1: Portability

The Perry family is an applicant family that consists of head of household Ashley Perry (age 37), her boyfriend Steven (age 38), and their children Katy (age 10) and Russell (age 8). No one in the family is disabled. All family members are eligible citizens. The family claimed to be zero income on their initial application. The PHA requested the family fill out a zero-income questionnaire, and the family did not identify any other sources of income. The Perry family currently lives in Miami, Florida, and applied for admission to Miami's HCV program by filling out an application in that jurisdiction. Their name has come to the top of the waiting list in Miami. At the voucher briefing, the Perry family indicates that they would like to use their voucher to move to San Diego, CA.

1. At this point, may the Perry family port? Why or why not?

2. If so, after the family informs the PHA of where they would like to move, what should the IHA check for this applicant family before processing portability?

3. When the IHA contacts the RHA, what will the IHA ask the RHA about the Perry family's voucher?

The housing authority in San Diego informs Miami that they will administer the Perry family's voucher. The housing authority in Miami is sending Part I of the HUD-52665 to San Diego.

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Family Portability Information

Housing Choice Voucher Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 4/30/2026)

OMB Burden Statement. The public reporting burden for this information collection is estimated to be up to 0.50 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is required to exercise portability within the housing choice voucher program. Assurances of confidentiality are not provide d under this collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Office of Public and Indian Housing, US. Department of Housing and Urban Development, Washington, DC 20410. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Privacy Act Statement. The Department of Housing and Urban Development (HUD) is authorized to collect the information on this form by 24 CFR 982.355. Collection of this information, including SSN and annual income, is voluntary. The information is used to standardize the information submitted to the receiving Public Housing Agency (PHA) by the initial PHA. In addition, the information is used for monthly billing by the receiving PHA. Failure to provide any of the information may result in delay or rejection of a family port.

Part I Initial PHA Information and Certification
Instructions: This portion of the form is to be completed by the initial PHA for a family that is moving out of the initial PHA's jurisdiction under the portability procedures.

1. Head of Household Name				2. Head of Household Social Security Number
Ashley Perry				123-45-6789
3. Voucher Number (if applicable)	4. Bedroom Size	5. Issuance Date (mm/dd/yyy)	6. Expiration Date (mm/dd/yyy)	7. Date of Last Income Examination (mm/dd/yyyy)
	3	05/01/2018	07/01/2018	04/01/2018

8. Annual income if new admission (not currently a voucher participant) $ 0.00

9. Date by which initial billing must be received (90 days following the expiration date of the initial PHA voucher) (mm/dd/yyyy) 09/29/2018

10. Initial PHA administrative fee rate $ 44.97
(Note: include proration, if applicable. For example, if the proration factor for the year is 79% and your column B rate is $60, enter $47.4)

11. 80% of initial PHA ongoing administrative fee (line 10 x 0.8) $ 35.98

12. Receiving PHA to which family has been referred: San Diego Housing Commission.

Attachments:

a. A copy of the voucher issued by the initial PHA.

b. **The most recent form HUD-50058 and copies of all related verification information for the current form HUD-50058**. (Note: This is the latest form HUD-50058 completed for either an applicant, a new admission, an annual reexamination, or an interim redetermination. It is not the form HUD-50058 that the initial PHA completes to report the portability move-out.)

Certification Statement:
The family ☐ is a current program participant or ☒ is not a current program participant but is income-eligible in the receiving PHA's jurisdiction (see line 8 above), and the voucher was issued in accordance with the program regulations. Please issue the family a receiving PHA voucher that does not expire before 30 days from the expiration date indicated in Item 6 (the expiration date on the initial PHA's voucher) for the appropriate bedroom size (based on the receiving PHA's policies). I certify that the information contained on Part I of this form and the attached documents provided by my agency are true and correct. My agency will promptly reimburse amounts paid on behalf of the above family within 30 calendar days of receipt of Part II of this form and thereafter ensure that subsequent billing payments are received by your agency no later than the fifth working day of each month. Failure to comply with these payment due dates may result in the transfer of the family's voucher in accordance with program rules and regulations.

Name of Certifying PHA Official Sammy Jones — Type Full Name and Address of Initial PHA below

Signature Sammy Jones

Initial PHA Contact Name Miami Housing Authority

Phone Number (123) 287-5555 Email _____

Form Submission Date (mm/dd/yyyy) 05/05/2018

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form **HUD-52665** (04/2023)

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4. According to the HUD-52665, what information, aside from the HUD-52665 form itself, must Miami send to San Diego for the Perry family?

5. Upon receipt of the proper documents and the 52665, what should the RHA promptly do?

The family finds a unit in San Diego and submits an RFTA to the RHA. The RHA approves the tenancy and signs a HAP contract on behalf of the family.

6. When must the RHA submit Part II of the 52665 to the IHA?

7. Once Miami receives Part II of the 52665, they must submit their first payment within _____ days and make subsequent payments by

8. A year later, the Perry family has an annual recertification. Assuming that the voucher is still being administered by San Diego, what does San Diego send Miami?

9. Two years later, the Perry family decides to move to Seattle, Washington. Assuming that the voucher is still being administered by San Diego and the move is approved, which PHA would initiate the port with the family, San Diego or Miami?

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Learning Activity 8-2: Portability Knowledge Check

1. Portability is:
   a. Exchanging one form of assistance for another
   b. Ability of family to terminate the lease
   c. Renting a dwelling unit outside of the jurisdiction of an initial PHA with continued assistance under the program.
   d. None of the above

2. For portability purposes, a nonresident applicant family is one in which:
   a. Neither the household head nor the spouse had a legal residence in the jurisdiction of the initial PHA at the time the family first applied
   b. Neither the household head nor the spouse had a legal residence in the jurisdiction of the initial PHA at the time the family's name came to the top of the wait list
   c. The head or spouse lived in another state when the family first applied
   d. None of the above

3. During the 12-month period from the time of admission to the program, a nonresident family:
   a. May lease a unit anywhere in the jurisdiction of the initial PHA
   b. Does not have a right to portability
   c. May be allowed to exercise portability if the initial PHA allows portability during this period
   d. All of the above

4. If a participant family wishes to move outside of the initial PHA's jurisdiction, the receiving PHA does not redetermine income eligibility.
   a. True
   b. False

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5. If a family wants to exercise portability and move within the state, but there is not a PHA with a tenant-based program in that area, the family is not allowed to move to that area under portability.
   a. True
   b. False

6. If you have a tenant-based program and a voucher holder wants to move to your jurisdiction under portability regulations, you must either administer or absorb the voucher.
   a. True
   b. False

7. Only the receiving PHA has the right to terminate the family's assistance if the PHA is administering the voucher.
   a. True
   b. False

8. If the family is an initial lease-up, the family must be income-eligible under the receiving PHA's applicable income limit.
   a. True
   b. False

9. If the receiving PHA does not bill the initial PHA within the HUD-required timeframes, HUD may require the receiving PHA to absorb portable families.
   a. True
   b. False

10. The voucher the receiving PHA issues cannot expire before 30 calendar days from the expiration date of the initial PHA's voucher.
    a. True
    b. False

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11. The initial PHA decides whether to extend the RHA's voucher under portability.
    a. True
    b. False

12. PHAs cannot permit families to move under portability if the family moves out of its assisted unit in violation of the lease, except for VAWA.
    a. True
    b. False

Section 8.4 NMA Continued Learning

RESTRICTION ON DENIALS DUE TO INSUFFICIENT FUNDING

CFR 982.354(e)(1)
Notice PIH 2016-09

- The PHA may not deny a move within the jurisdiction or under portability simply because it is to a higher cost unit/area.
- A PHA may only deny moves to a higher cost unit/area due to insufficient funding if all the following apply:
  - The move/port is to a higher cost unit/jurisdiction
    - PHA may not deny the request due to insufficient funding if the PHA would not pay a higher subsidy amount or higher payment standard
  - The PHA would be unable to avoid terminating current participants during the calendar year to remain within their budget allocation, including available HAP reserves.
    - *Insufficient funding* means the PHA would use all its annual budget authority and its available Net Restricted Position (HAP reserves).
  - The RHA will administer the voucher.
    - The IHA must contact the RHA to determine if the RHA will absorb the family's voucher
- The decision to deny the move due to insufficient funding is subject to reasonable accommodation. A PHA may still determine that allowing the move would pose an undue financial and administrative burden to the PHA. In the event a complaint is filed alleging a failure to grant a reasonable accommodation, the determination is subject to review by the local HUD office, as well as by FHEO.
- If a move is denied due to insufficient funding, the PHA may not admit any waiting list families to the program until the family that was denied is permitted to move.

- The PHA must establish written administrative plan policies addressing:
  - How families will be informed of PHA policies for denial of moves due to insufficient funding, and
  - How long the family's request will be considered and how families will be notified when funding becomes available.
- The PHA must notify the HUD field office in writing within 10 business days of the determination that moves must be denied
- If a move is denied, the PHA must support and document the lack of funds
- The initial PHA may not terminate a billing arrangement with a receiving PHA for insufficient funding.
- The initial PHA may not impose a cap on the amount of HAP it will pay for a family that has moved under portability.

Notice PIH 2016-09

- If the PHA approves a move within their jurisdiction or under portability, and subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family may remain in their current unit.
- If the family cannot remain in their current unit because they have already vacated or the owner has relet the unit, the PHA may not rescind the voucher and the family must be allowed to lease a unit.

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- If a family must move from their current assisted unit (example: overcrowded):
  - The PHA may not deny the move within its jurisdiction - even to a higher cost unit.
  - The PHA may deny the move under portability if the move is to a higher cost area and the receiving PHA is not absorbing the voucher.
- Penalties for improper denials due to insufficient funding:
  - Administrative fee reduction up to 10 percent for two quarters following the quarter in which HUD identified improper denials
  - Additional remedial actions or sanctions
- Improper denial of move/portability requests is a violation of program regulations.

PIC Data Entry

Voucher Issuance

- HUD-50058 Line 2a
  - Action Code 10 (Voucher Issuance)
  - Initial PHAs must enter an action code 10 for families that exercise a portability move with their first admission into the voucher program.
  - Receiving PHAs must enter an action code 10 before submission of an action code 1 (New Admission) and an action code 4 (Portability Move-in).

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PORTABILITY MOVE-IN OR NEW ADMISSION

- HUD-50058 Line 2a
  - The receiving PHA classifies a family as a 4 (Portability Move-in) if the family moves into a receiving PHA's jurisdiction after being previously assisted by an initial PHA regardless of whether the receiving PHA absorbs the family or bills the initial PHA.
  - The receiving PHA classifies a family as a 1(New Admission) if the family exercises portability with its first admission into the voucher program. This family (generally off the waiting list) would have received a voucher for the first time from the initial PHA and exercised portability without ever having leased an assisted unit in the initial PHA's jurisdiction.
- Effective Date of the Action (Line 2b) is the effective date of the HAP contract for the family.

PORTABILITY MOVE-OUT

- HUD-50058 Line 2a
  - A participant family is classified as a 5 (Portability Move-out) if the family moves out of an initial PHA's jurisdiction, where it had been previously assisted, and into a receiving PHA's jurisdiction, regardless of whether the receiving PHA bills the initial PHA or absorbs the family.
    - The initial PHA submits a Portability Move-Out report only after the receiving PHA reports that it has executed a HAP contract on behalf of the family as recorded in boxes 2 or 3 in Part II-B of the Form HUD-52665.
- The effective date of the action (2b) for the Portability Move-out is the date entered in box 2 or 3 of the form HUD-52665.

ADDITIONAL DATA ENTRY REQUIREMENTS

- HUD-50058 Line 12d
  - If the family moved into a PHA's jurisdiction under portability as a new admission or portability move-in, regardless of whether the family is absorbed into the receiving PHA's jurisdiction or the initial PHA is billed, the PHA must enter Y in this field. That field will not change as long as the family continues to be assisted in the receiving PHA's jurisdiction, even if the receiving PHA decides to absorb the family after first billing the initial PHA.
- HUD-50058 Line 12f
  - Since a PHA is not responsible for submitting reports into PIC for families whose assistance is being administered by another PHA under portability, the PHA code of the billed PHA must be entered correctly in order for reporting rates to be accurate.

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CHAPTER 9 Knowledge Check Answers

CHAPTER 1: BASIC PROGRAM INFORMATION

I. 1. b 2. e 3. c 4. f 5. d 6. a	II. 1. b 2. g 3. f 4. e 5. c 6. d 7. a	III. 1. a 2. a 3. b 4. b 5. b

CHAPTER 2: WAITING LIST MANAGEMENT

1. b 2. b 3. c 4. a 5. c	6. b 7. b 8. a 9. b

CHAPTER 3: ELIGIBILITY

1. b 2. c 3. d	4. c 5. d 6. e	7. b 8. b 9. a	10. a 11. b	12. b 13. a
14. An *elderly family* means a family whose head (including cohead), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 living together or one or more persons who are at least 62 years of age living with one or more live-in aides.				
15. An original SSN card issued by the SSA. An original SSA-issued document that contains the name and SSN of the individual. An original document issued by a federal, state, or local government agency that contains the name and SSN of the individual.				
16. a 17. b 18. b 19. a 20. a	21. - Notify the household of the proposed action - Provide the applicant and subject of the record with: • A copy of the information • An opportunity to dispute the accuracy and relevancy of the information			

CHAPTER 4: VOUCHER

1. b	6. a
2. b	7. a
3. b	8. a
4. c	9. b
5. e	10. b

CHAPTER 5: LEASING

1. d 2. 1. Changes governing the term of the lease 2. Changes in tenant or owner utility responsibilities 3. The family moves to a new unit 3. a 4. b 5. b 6. a 7. b 8. b		9. b 10. a 11. b 12. d 13. b 14. b 15. b 16. a 17. b 18. a 19. b

CHAPTER 6: ANNUAL ACTIVITIES

1. When the family adjusted income has increased by 10 percent or more; however, the PHA may not consider earned income in estimating whether adjusted income has increased, unless the family has previously received an interim reduction during the same certification period		
2. d 3. a 4. a	5. a 6. a 7. b	8. b 9. b 10. a

CHAPTER 7: TERMINATIONS

1. b	6. b
2. a	7. b
3. b	8. c
4. c	
5. a	

CHAPTER 8: PORTABILITY

1. c	7. b
2. a	8. a
3. d	9. a
4. a	10. a
5. a	11. b
6. a	12. a

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CHAPTER 10 Review Activity and Quiz

Scenario

Your agency has asked you to conduct a briefing for applicants who have recently been pulled from the waiting list and determined eligible to receive a voucher. Once the briefing is over, several applicants ask you questions. With a partner, discuss how you would answer each question.

1. I thought I wanted to live here, but I just got offered a job two states away, can I still keep my voucher?

2. What if I find an apartment that I really like that has more bedrooms than what's on my voucher?

3. Is there a limit on the amount of rent I'm allowed to pay?

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4. You said my rent has to be affordable, what does that mean? You used a lot of words I didn't understand when you explained it, like *gross rent* and *payment standard*. Can you be a little clearer?

5. My sister owns a really nice place she is willing to rent to me, is it okay if I use my voucher with her?

6. Your agency issued me a voucher to look for a unit, but I have a really bad rental history, do landlords have to rent to me because I have this voucher?

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7. If I run out of time on my voucher, and I haven't found a unit yet, what do I do?

8. Landlords I've talked to have said that if I'm interested in getting an apartment, I need to sign a lease with them right away to hold the apartment because they don't want to wait for the PHA to pay them. If I sign a lease, will your agency work with whatever landlord I choose?

9. The owner told me that since I have children, I'm going to have to pay a higher security deposit. Can you help me with that?

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10. At what point do you consider me a participant on the program?

11. I think I'm going to have trouble finding a unit because of my disability. I don't think I'm going to be able to live alone. Do I have to be able to live by myself in order to be able to use this voucher?

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Learning Activity 10-1: Eligibility/Occupancy Quiz

General Program Information

1. If a person with disabilities requests a reasonable accommodation, the PHA must automatically approve the request.
   a. True
   b. False

2. If a participant requests a live-in aid, the PHA must approve whomever the participant chooses.
   a. True
   b. False

3. In order for a PHA to grant a reasonable accommodation, it must have information regarding the nature and extent of the disability in question.
   a. True
   b. False

4. The HAP contract is the document that establishes local PHA policies for the administration of the HCV program.
   a. True
   b. False

5. VAWA protections only apply to applicants to the HCV program. They do not apply to program participants.
   a. True
   b. False

6. The definition of disability for purposes of granting a reasonable accommodation is the same definition used for a family to qualify for allowances and deductions from income.
   a. True
   b. False

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7. The Tenancy Addendum is the document that establishes the owner's policies for screening prospective tenants.
   a. True
   b. False

8. HCV is project-based assistance.
   a. True
   b. False

WAITING LIST MANAGEMENT

9. An applicant may not be on both the PHA's HCV waiting list and public housing waiting list.
   a. True
   b. False

10. A family living in a public housing unit may not apply to be on a PHA's HCV waiting list.
    a. True
    b. False

11. All PHAs must either adopt a working preference or a residency preference for their waiting lists.
    a. True
    b. False

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ELIGIBILITY

12. More than one family can claim the same child as a dependent.
    a. True
    b. False

13. Which documents does HUD require to document the citizenship status of U.S. citizens and nationals?
    a. Birth certificate
    b. Passport
    c. Photo ID
    d. Signed Declaration 214
    e. All of the above

14. A family applied to the HCV program. The PHA verifies that their net family assets total $250,000. The PHA must deny assistance.
    a. True
    b. False

15. The student rule applies to any student who:
    a. Is age 24 or older
    b. Has at least one dependent child
    c. Is a veteran
    d. Is married
    e. Lives with his or her parents
    f. None of the above

16. Which of the following documents will satisfy verification requirements for SSNs?
    a. An original SSN card issued by the SSA
    b. An original SSA-issued document, which contains the name and the SSN of the individual
    c. An original document issued by any federal, state, or local government agency, which contains the name and SSN of the individual
    d. Any of the above

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17. A *noncontending* family member:
    a. Is not subject to sex offender registry checks
    b. Does not have his or her income counted toward the family's annual income
    c. Is not required to disclose a Social Security number
    d. May not be the head of household
    e. Both c and d

18. A participant family informs the PHA that they have just had a baby, but the baby has not yet been issued a Social Security number by the SSA. How long must the PHA give the family to disclose the baby's SSN?
    a. 30 days
    b. 60 days
    c. 90 days
    d. 120 days

19. After the period described in question #14, the family still has not disclosed the newborn's SSN. The PHA has determined that the delay is due to circumstances beyond the family's control. The PHA must then:
    a. Give the family another 30 days
    b. Give the family another 60 days
    c. Give the family another 90 days
    d. Give the family another 120 days

20. After the period described in question #15, the family has still not disclosed the newborn's SSN. The PHA must:
    a. Decide how much more time to give the family, based on policies in the PHA's administrative plan
    b. Terminate the entire family's assistance
    c. Give the family another 90-day extension if the circumstances are beyond the family's control
    d. Request documentation directly from the SSA

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21. A family where the head of household is receiving SSI qualifies as a disabled family.
    a. True
    b. False

22. Income limits only apply to applicants. They do not apply to participants.
    a. True
    b. False

23. The Smith family applies to the ABC PHA's program. The family owes money to another PHA for a previous tenancy. ABC PHA must deny admission.
    a. True
    b. False

24. When the PHA is denying admission based on criminal record information, prior to the denial, the PHA must give the family the opportunity to dispute the accuracy of the information.
    a. True
    b. False

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VOUCHER ISSUANCE

25. At a minimum, the PHA must initially issue the voucher for at least _____ calendar days.
    a. 30
    b. 60
    c. 90
    d. 120

26. The PHA must establish subsidy standards of 2 persons per bedroom.
    a. True
    b. False

27. The family may not select a larger unit than their voucher size.
    a. True
    b. False

28. Admission to the HCV program occurs when the PHA issues the family a voucher.
    a. True
    b. False

LEASING

29. The owner and the family must sign the lease agreement before the PHA may process the Request for Tenancy Approval (RFTA).
    a. True
    b. False

30. Who is a party to the lease?
    a. The family
    b. The owner
    c. The PHA
    d. All of the above
    e. a and b only

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31. Who is a party to the HAP contract?
    a. The family
    b. The owner
    c. The PHA
    d. All of the above
    e. B and c only

32. The PHA must screen the family for suitability as a renter.
    a. True
    b. False

33. The family may use their voucher to lease an owner-occupied unit.
    a. True
    b. False

34. The owner may terminate the lease during the initial term for housekeeping habits that cause damage to the unit.
    a. True
    b. False

35. The owner may raise the rent during the initial term of the lease.
    a. True
    b. False

36. If the security deposit for the unit is not enough to cover amounts owed to the owner by the family, the owner may collect the balance from the PHA.
    a. True
    b. False

37. The owner may only raise the rent at the time of the family's annual reexamination.
    a. True
    b. False

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38. The PHA may only pay HAP to the owner if the HAP contract is executed prior to the start date of the lease.
    a. True
    b. False

39. The owner must give the PHA 90 days' notice of any rent increase.
    a. True
    b. False

40. A new HAP contract is required for any change in ownership of the unit.
    a. True
    b. False

41. If the owner is in abatement, the family is not responsible for paying the portion of the rent that would typically be covered by HAP.
    a. True
    b. False

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ANNUAL ACTIVITIES

42. The PHA must conduct an interim reexamination any time a family member's earned income increases.
    a. True
    b. False

43. The PHA must conduct an interim if the family's adjusted income has decreased by 10% or more.
    a. True
    b. False

44. When calculating income for an interim reexam, the PHA must anticipate income for the upcoming 12-month period.
    a. True
    b. False

45. If the family vacates a unit without notice to the owner, the owner is entitled to keep HAP for the entire month in which the family moved.
    a. True
    b. False

46. If a family fails to report timely for an interim reexam that would result in an increase in the family's rent, the PHA must apply the increase retroactive to the first of the month following the date of the change.
    a. True
    b. False

47. If a family damages the unit and it results in deficiency, the owner is always responsible for correcting the deficiency.
    a. True
    b. False

48. Families may only move at the time of their annual reexamination.
    a. True
    b. False

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TERMINATIONS

49. The PHA must terminate the family's assistance if the owner decides not to renew the family's lease in order to allow the owner's mother to move into the unit.
    a. True
    b. False

50. If a family is evicted from their unit for a serious violation of the lease, the PHA must terminate their assistance.
    a. True
    b. False

51. The family may be absent from their unit for a maximum of 60 days.
    a. True
    b. False

52. If a family is zero HAP, the HAP contract automatically terminates the first of the month following the determination.
    a. True
    b. False

53. The PHA must conduct an informal review any time a family requests one.
    a. True
    b. False

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PORTABILITY

54. The RHA intends to bill the IHA but does not submit the initial billing within the billing deadline because the family has not yet found a unit in the RHA's jurisdiction. When the RHA does send the billing information, the IHA refuses to honor the late billing. The RHA must then:
    a. Terminate the family's assistance
    b. Absorb the family's voucher unless HUD requires the IHA to honor the late billing
    c. Bill HUD for the cost of the HAP for the family
    d. Refer the family back to the IHA

55. The initial billing from the RHA is due to the IHA:
    a. 10 days from the effective date of the HAP contract
    b. 10 days from the execution of the HAP contract
    c. 90 days from the expiration of the IHA's voucher
    d. 90 days from the expiration of the RHA's voucher
    e. Both b and c
    f. Both a and d

56. If the RHA is administering the voucher, when is the RHA required to send a copy of the form HUD-52665 to the IHA?
    a. Within 30 days of all interim reexaminations and at annual reexamination
    b. At the IHA's request
    c. At HUD's request
    d. Whenever there is a change in the billing amount and at annual reexamination

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LEARNING ACTIVITY 10-1: ANSWER KEY

1. b	12. b	23. b	34. a	45. a
2. b	13. d	24. a	35. b	46. b
3. b	14. a	25. b	36. b	47. b
4. b	15. f	26. b	37. b	48. b
5. b	16. d	27. b	38. b	49. b
6. b	17. c	28. b	39. b	50. a
7. b	18. c	29. b	40. b	51. b
8. b	19. c	30. e	41. a	52. b
9. b	20. b	31. e	42. b	53. b
10. b	21. a	32. b	43. a	54. b
11. b	22. a	33. b	44. a	55. e
				56. d

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CHAPTER 11 Eligibility and Occupancy Study Guide

Define the following terms:

1. Annual contributions contract (ACC):

2. Request for tenancy approval (RFTA):

3. Housing assistance payment (HAP) contract:

4. Voucher (form HUD-52646):

5. Tenancy addendum (form HUD-52641-A):

6. Administrative plan:

7. Elderly family:

8. Disabled family:

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9. VAWA

I. ELIGIBILITY

10. List the three criteria for approval of a live-in aide:

1) _____
2) _____
3) _____

11. List the verification requirements for each of the following citizenship categories:

1) Eligible citizens	
2) Eligible noncitizens 62 or over	
3) Eligible noncitizens under 62	
4) Ineligible noncitizens	

12. List the four exemption criteria for the student rule under which the PHA would not examine parental income or determine if a student is independent.

1) _____
2) _____
3) _____
4) _____

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13. PHAs must obtain verification of eligibility no more than _____ days before initial issuance of a voucher.

14. If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, the PHA must extend the term.

    ☐ True ☐ False

15. Each PHA must establish subsidy standards in its _____

16. Regarding unit size selection, families may select larger units than listed on their voucher provided the unit is affordable.

    ☐ True ☐ False

17. Decide whether the following families are eligible for assistance (E), ineligible for assistance (IE) or would receive prorated assistance (P):

    1) Head: eligible citizen, age 64
       Spouse: ineligible noncitizen, age 60 _____
    2) Head: ineligible noncitizen, age 25
       Spouse: ineligible noncitizen, age 26 _____
    3) Head: eligible noncitizen, age 61 _____
    4) Head, ineligible noncitizen, age 37
       Spouse: eligible citizen, age 35 _____

18. PHAs must admit an applicant as either a _____ admission or a _____ admission

19. Decide whether the PHA **may** or **may not** perform the following actions:

    1) If the PHA's public housing and HCV waiting lists are open, the PHA _____ make eligible families choose on which list they would like to be placed.
    2) Once a family reaches the top of the HCV waiting list, the PHA _____ automatically remove the family from the public housing waiting list.

20. The definition of the term *disability* is more broadly defined for purposes of reasonable accommodations that it is for purposes of allowances and deductions.

    ☐ True ☐ False

21. Income limits apply to:
    a. Applicants only
    b. Applicants and participants
    c. Participants only

22. The PHA must deny program admission if the family currently owes rent or other amounts to any PHA.

    ☐ True ☐ False

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II. OCCUPANCY

1. Decide whether the following are owner (O), PHA (P) or family (F) responsibilities:

1)	Determining program eligibility	
2)	Enforcing the lease	
3)	Screening the family based on their tenancy history	
4)	Maintaining the unit in accordance with NSPIRE	
5)	Compliance with HAP contract	
6)	Compliance with fair housing requirements	

2. The HAP contract must be executed within _____ days of the lease.

3. The HAP contract begins and ends on the same day as the _____

4. Does the issuance of a voucher obligate the PHA to provide assistance to the family?

_____

5. List the restricted relatives under the relatives' rule:

1) _____
2) _____
3) _____
4) _____
5) _____
6) _____

6. If a family moves to a new unit, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the old unit.

☐ True ☐ False

7. The notice period for an owner rent increase to the PHA is _____
The notice period for an owner rent increase to the family is _____
The notice period the PHA gives the family when an owner increases rent is _____

a. Determined by PHA policy
b. Governed by the owner's lease
c. 60 days

8. If the family vacates the unit without notice to owner, the owner may keep HAP for

_____

9. When a family breaks up, the voucher goes to:
   a. Head of household
   b. Spouse
   c. Whoever has custody of the children
   d. PHA policy

   If the breakup is a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, who gets the voucher?

_____

10. When exercising portability, _____ families are subject to the RHA's applicable income limit.
    a. Applicant
    b. Participant
    c. Both applicant and participant families

11. In what situations is a PHA required to determine rent reasonableness?
    1) _____
    2) _____
    3) _____
    4) _____

12. List at least five examples of mandatory terminations:

13. A family may not be absent from the unit for a period of more than _____ consecutive calendar days, however, PHA policy may allow for a shorter period for termination of assistance when no family member is residing in the unit.

14. The HAP contract automatically terminates _____ calendar days after the last housing assistance payment to the owner.

15. Provided the HAP contract is executed within _____ days of the lease, the PHA pays HAP retroactively back to the beginning of the lease term.

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16. List two situations in which a family may request an informal hearing for a PHA determination to terminate assistance:

17. During the initial lease term, what is the owner prohibited from doing?

18. List three types of housing that may not be assisted in the tenant-based program:

19. If the security deposit does not cover the amounts the family owes under the lease, what can the owner do?

20. When a family moves from one unit to another, overlap of HAP for the old unit for the month the family moves and the first HAP for the new unit is considered a duplicative housing subsidy.

☐ True ☐ False

21. In what circumstances is a new HAP contract required?

22. If an HCV owner is in abatement, they can demand that the tenant pay the entire rent.

☐ True ☐ False

23. The PHA may restrict moves to the family's annual recertification.

☐ True ☐ False

24. In what situation may a nonresident applicant exercise portability upon initial lease up?

25. Who has the right to terminate a family's assistance under portability?
    a. Only the initial PHA
    b. Only the receiving PHA
    c. Both the initial and receiving PHA

26. If a family wishes to request more search time in the receiving PHA's jurisdiction, the initial PHA must extend the RHA's voucher.

☐ True ☐ False

27. If the PHA wishes to deny admission or terminate assistance based on information found in a criminal conviction record, what step must the PHA take first?

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Notes

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CHAPTER 12 Answers to Eligibility and Occupancy Study Guide

Define the following terms:

1. Annual contributions contract (ACC):

The written contract between HUD and the PHA under which HUD agrees to provide funding for the program, and the PHA agrees to comply with HUD requirements.

2. Request for tenancy approval (RFTA):

The family submits this form to the PHA with a copy of the proposed lease to request approval of a unit before lease up.

3. Housing assistance payment (HAP) contract:

The contract between the PHA and the owner.

4. Voucher (form HUD-52646):

Document that authorizes the family to search for an eligible unit which also specifies the size of that unit. Also lists the family obligations under the program.

5. Tenancy addendum (form HUD-52641-A):

Document that adds HUD program requirements to the owner's lease.

6. Administrative plan:

A HUD-required written plan that establishes local PHA policies for administering the HCV program.

7. Elderly family:

A family whose head, spouse, cohead, or sole member is at least 62 years of age.

8. Disabled family:

A family whose head, spouse, cohead, or sole member is a person with disabilities.

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9. VAWA

The Violence Against Women Act that seeks to reduce domestic violence, dating violence, sexual assault, stalking, and human trafficking, and to prevent homelessness. It applies to men, women, and children and to both applicants and participants of the program.

I. ELIGIBILITY

10. List the three criteria for approval of a live-in aide:
    1) **Essential to the care and well-being of that person**
    2) **Not legally obligated to provide support to that person**
    3) **Would not be living in the unit except to provide supportive services**

11. List the verification requirements for each of the following citizenship categories:

1)	Eligible citizens	**Execute a Declaration 214 (PHA policy may require additional verification)**
2)	Eligible noncitizens 62 or over	**Execute a Declaration 214 and provide proof of age**
3)	Eligible noncitizens under 62	**Execute a Declaration 214, provide a USCIS card or other USCIS documentation, and sign a verification consent form**
4)	Ineligible noncitizens	**Head or spouse/cohead sign a noncontending form listing noncontending family members**

12. List the four exemption criteria for the student rule under which the PHA would not examine parental income or determine if a student is independent.
    1) **At least 24 years old**
    2) **Veteran**
    3) **Married**
    4) **At least one dependent child**

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13. PHAs must obtain verification of eligibility no more than **60** days before initial issuance of a voucher.

14. If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, the PHA must extend the term.

    [**T**] True [ ] False

15. Each PHA must establish subsidy standards in its **administrative plan**

16. Regarding unit size selection, families may select larger units than listed on their voucher provided the unit is affordable.

    [**T**] True [ ] False

17. Decide whether the following families are eligible for assistance (E), ineligible for assistance (IE) or would receive prorated assistance (P):

1)	Head: eligible citizen, age 64 Spouse: ineligible noncitizen, age 60	**P**
2)	Head: ineligible noncitizen, age 25 Spouse: ineligible noncitizen, age 26	**IE**
3)	Head: eligible noncitizen, age 61	**E**
4)	Head, ineligible noncitizen, age 37 Spouse: eligible citizen, age 35	**P**

18. PHAs must admit an applicant as either a **waiting list** admission or a **special** admission

19. Decide whether the PHA **may** or **may not** perform the following actions:
    1) If the PHA's public housing and HCV waiting lists are open, the PHA **may not** make eligible families choose on which list they would like to be placed.
    2) Once a family reaches the top of the HCV waiting list, the PHA **may not** automatically remove the family from the public housing waiting list.

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20. The definition of the term *disability* is more broadly defined for purposes of reasonable accommodations that it is for purposes of allowances and deductions.

    [T] True [ ] False

21. Income limits apply to:
    a. Applicants only *
    b. Applicants and participants
    c. Participants only

22. The PHA must deny program admission if the family currently owes rent or other amounts to any PHA.

    [ ] True [F] False

II. OCCUPANCY

1. Decide whether the following are owner (O), PHA (P) or family (F) responsibilities:

1)	Determining program eligibility	**P**
2)	Enforcing the lease	**O**
3)	Screening the family based on their tenancy history	**O**
4)	Maintaining the unit in accordance with NSPIRE	**O & F**
5)	Compliance with HAP contract	**O & P**
6)	Compliance with fair housing requirements	**O & P**

2. The HAP contract must be executed within **60** days of the lease.

3. The HAP contract begins and ends on the same day as the **lease**

4. Does the issuance of a voucher obligate the PHA to provide assistance to the family?
No

5. List the restricted relatives under the relatives' rule:

1) **Parent**
2) **Grandparent**
3) **Child**
4) **Grandchild**
5) **Brother**
6) **Sister**

6. If a family moves to a new unit, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the old unit.

[**T**] True [ ] False

7. The notice period for an owner rent increase to the PHA is **c**
The notice period for an owner rent increase to the family is **b**
The notice period the PHA gives the family when an owner increases rent is **a**

a. Determined by PHA policy
b. Governed by the owner's lease
c. 60 days

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8. If the family vacates the unit without notice to owner, the owner may keep HAP for
the month in which the family moved

9. When a family breaks up, the voucher goes to:
   a. Head of household
   b. Spouse
   c. Whoever has custody of the children
   d. PHA policy *

   If the breakup is a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, who gets the voucher?
   The victim.

10. When exercising portability, **applicant** families are subject to the RHA's applicable income limit.
    a. Applicant
    b. Participant
    c. Both applicant and participant families

11. In what situations is a PHA required to determine rent reasonableness?
    1) **If owner requests increase**
    2) **If 10%+ decrease in current FMR**
    3) **HUD may require PHA to conduct rent reasonableness at any time**
    4) **PHA may elect to do rent reasonableness outside of required time frames**

12. List at least five examples of mandatory terminations:

SSN disclosure requirements not met

Any family member fails to sign and submit required consent forms

A family member does not establish citizenship or eligible immigration status

The PHA determines that a family member has knowingly permitted an ineligible noncitizen to reside in the unit

Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education

A family was evicted from housing assisted under the program for serious violation of the lease

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

The family is absent from the unit for a period of more than 180 consecutive calendar days

Household member is subject to a lifetime sex offender registration requirement

13. A family may not be absent from the unit for a period of more than **180** consecutive calendar days, however, PHA policy may allow for a shorter period for termination of assistance when no family member is residing in the unit.

14. The HAP contract automatically terminates **180** calendar days after the last housing assistance payment to the owner.

15. Provided the HAP contract is executed within **60** days of the lease, the PHA pays HAP retroactively back to the beginning of the lease term.

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16. List two situations in which a family may request an informal hearing for a PHA determination to terminate assistance:

Family's action or failure to act

The participant family has been absent from the assisted unit for longer than allowed

17. During the initial lease term, what is the owner prohibited from doing?

Changing the term of the lease, raising the rent, or changing the utility responsibilities.

18. List three types of housing that may not be assisted in the tenant-based program:

Public housing or Indian housing unit

Units receiving project-based section assistance

Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services

College or other school dormitories

Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions

Owner-occupied units

19. If the security deposit does not cover the amounts the family owes under the lease, what can the owner do?

The owner may collect the balance from the tenant.

20. When a family moves from one unit to another, overlap of HAP for the old unit for the month the family moves and the first HAP for the new unit is considered a duplicative housing subsidy.

[ ] True [**F**] False

21. In what circumstances is a new HAP contract required?

Change in unit
Change in utility responsibilities
Change in term

22. If an HCV owner is in abatement for noncompliance with NSPIRE standards, they can demand that the tenant pay the entire rent.

[ ] True [**F**] False

23. The PHA may restrict moves to the family's annual recertification.

[ ] True [**F**] False

24. In what situation may a nonresident applicant exercise portability upon initial lease up?

If the initial PHA allows the move.

25. Who has the right to terminate a family's assistance under portability?
    a. Only the initial PHA
    b. Only the receiving PHA
    c. Both the initial and receiving PHA *

26. If a family wishes to request more search time in the receiving PHA's jurisdiction, the initial PHA must extend the RHA's voucher.

[ ] True [**F**] False

27. If the PHA wishes to deny admission or terminate assistance based on information found in a criminal conviction record, what step must the PHA take first?

Notify the household of the proposed action.
Provide the applicant and subject of the record with a copy of the information.
Give the family an opportunity to dispute the accuracy of the information.

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Notes

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