**Boone County Public Housing Agency**

**2016-2017 Administrative Plans**

**Effective 7/1/02016 to 06-30-2017**

**Table of Contents**

**Introduction----------------------------------------------------------------------------------------------2**

**Chapter 1 History of the Housing Choice Voucher Program ---------------------------------3**

**Chapter 2 Fair Housing and Equal Opportunity------------------------------------------------5**

**Chapter 3 Eligibility-----------------------------------------------------------------------------------10**

**Chapter 4 Denial of Assistance----------------------------------------------------------------------23**

**Chapter 5 Applications, Waiting List and Tenant Selection----------------------------------33**

**Chapter 6 Annual Incomes, and Adjusted Income---------------------------------------------48**

**Chapter 7 Verification -------------------------------------------------------------------------------97**

**Chapter 8 Housing Quality Standards and Rent Reasonableness---------------------------124**

**Chapter 9 General Leasing--------------------------------------------------------------------------133**

**Chapter 10 Moving with Continued Assistance and Portability-----------------------------139**

**Chapter 11 Reexaminations-------------------------------------------------------------------------155**

**Chapter 12 Termination of Assistance------------------------------------------------------------164**

**Chapter 13 Owners -----------------------------------------------------------------------------------177**

**Chapter 14 HAP Contracts -------------------------------------------------------------------------183**

**Chapter 15 Program Integrity----------------------------------------------------------------------189**

**Chapter 16 Program Administration--------------------------------------------------------------197**

**Attachments --------------------------------------------------------------------------------------------224**

**INTRODUCTION**

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government through the U.S. Department of Housing and Urban Development Office of Public and Indian Housing and is administered by Boone County Public Housing Agency (BCPHA) dba Mid Missouri Public Housing Agency (MMPHA) for the jurisdiction of the following counties: Callaway, except for the city of Fulton; Cole; Cooper; Howard; Moniteau and Osage. In addition, MMPHA provides HCV assistance in Boone County for one (1) household that was served through the Disaster Voucher Program and was transferred over to the regular Voucher Program at the DVP end.

The Boone County Public Housing Agency board is composed of one elected representative from each participating County Commissions (or a County Commission designee) and one Section 8 Program participant (who may be appointed by the other members).

The Agency Board shall:

A. Adopt, amend or repeal the rules and regulations governing the conduct of its business and the performance of its functions.

B. Be responsible for the planning, study, development and approval of the Boone County PHA Annual and Five year housing plans for the improvement of housing conditions within the various counties and implementation of the Section 8 Housing Choice Voucher Program (“Section 8 Program”).

C. Provide advice, liaison, assistance and communication as needed to the Administrator of the Section 8 Program.

D. Be kept informed of the progress of the Section 8 Program.

E. Perform other duties as may, from time to time, be prescribed by the members and authorized under the laws of the State of Missouri.

Formal actions of the PHA are taken through written resolutions, adopted by the board and entered into the official records of the PHA.

MMPHA contracts with Central Missouri Community Action (CMCA), a private, non-profit 501 (c) 3 corporation formed December 6, 1965. It operates a network of eight (8) Family Resource Centers located in each of the 8 counties in the service area.

CMCA has extensive experience with managing and administering public funds from federal, state and local funding sources as well as an established history of handling all financial transactions required by this program.

CMCA focuses on the people they serve, the communities in which they live, and the organization’s capacity to be an agent of change through partnerships with other agencies within the communities that are served.

It is the mission of Boone County Public Housing Agency dba Mid Missouri Public Housing Agency to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

**HISTORY OF THE HOUSING CHOICE VOUCHER PROGRAM**

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in l974 and a brief history of the program will assist in understanding the program.

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

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

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

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules to more closely combine and align the two similar housing programs to the extent permitted by the law.

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

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

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

**FAIR HOUSING AND EQUAL OPPORTUNITY**

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on basis of race, color, religion, sex, national origin, age, familial status, and disability. MMPHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.

**MMPHA Policy**

MMPHA will carry out the public housing program of the agency in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 and will affirmatively further fair housing.

**Providing Information to Families and Owners**

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

**Discrimination Complaints**

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

**MMPHA Policy**

MMPHA provides families with information so they are informed how to contact the Missouri Human Rights Commission or the HUD Fair Housing and Equal Opportunity Office. Family’s are informed of their rights verbally, and also provided with a Fair Housing Brochure along with other information and forms relating to Fair Housing.

Applicants or other groups that allege they have experienced discrimination in their search for housing or as a program participant will be given assistance in filing a complaint or grievance if they so request.

**Reasonable Accommodation**

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

**Types of Reasonable Accommodations**

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

* Permitting applications and reexaminations to be completed by mail
* Conducting home visits
* Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
* Provide time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family seeking a unit
* Permitting an authorized designee or advocate to participate in the application or certification process and any other meeting with PHA staff
* Displaying posters and other housing information in locations throughout the PHA’s office in such a manner as to be easily readable from a wheel chair

**Request for an Accommodation**

If an applicant or participant indicates an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires the PHA treat the information as a request of accommodation, even if no formal request is made.

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

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

**MMPHA Policy**

MMPHA encourages the family to make its request in writing. MMPHA will consider the accommodation any time the family indicates an accommodation is needed whether or not a formal written request is submitted.

**Verification of Disability**

The regulatory civil rights definition for persons with disabilities is provided. The definition of a person with disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is use for waiting list preferences and income allowances.

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

If a person’s disability is obvious or otherwise know to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

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

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

* Third- party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability.
* The PHA must request only information necessary to evaluate the disability-related need for accommodation. The PHA will not inquire about the nature or extent of any disability.
* Medical records will not be accepted or retained in the participant file.

**MMPHA Police**

Third- party verification must be obtained from an individual licensed to diagnose. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability.

**Approval/Denial of a Requested Accommodation**

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

The request was made by or on behalf of a person with a disability.

There is a disability-related need for the accommodation.

The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA or fundamentally alter the nature of the PHA’s HCV operations (including the obligation to comply with HUD requirements and regulations).

Request for accommodations will be assessed on a case-by-case basis taking into account factors such as the cost of the requested accommodation and the financial resources of the PHA at the time of the request accommodation.

**Definition of a Person with a Disability under Federal Civil Rights Laws [24 CFR Part 8.3 and 100.201]**

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

Has a physical or mental impairment that substantially limits one or more of the major life activities of and individual, or

Has a record of such impairment, or

Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

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

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

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

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

**The definition of a person with disabilities does not include:**

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

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

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

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

**ELIGIBILITY**

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

**To be eligible for the HCV program the applicant family must:**

* Qualify as a family as defined by HUD and the PHA.
* Have income at or below HUD-specified income limits.
* Qualify on the basis of citizenship or the eligible immigrant family member as required.
* Provide social security number information for family members as required.
* Consent to the PHA’s collection and use of family information as provided for in PHA provided consent forms.
* The current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

**This chapter contains three parts:**

Definitions of Family and Household Members: HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

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

Denial of Assistance: This part covers factors related to an applicant’s past or current conduct that can cause the PHA to deny assistance.

**DEFINITONS OF FAMILY AND HOUSEHOLD [24 CFR982.201 (c), HUD-50058 IB, p 13]**

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

**Family**

To be eligible for assistance, an applicant must qualify as a family. Family also includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: .

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to :
3. 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;
4. An elderly family;
5. A near-elderly family;
6. A disabled family;
7. A displaced family; and
8. The remaining member of a tenant family.

The PHA has the discretion to determine if any other group of persons qualifies as a family.

**MMPHA Policy**

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

**Household**

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

**Family Break-up [24 CFR 982.315]**

The PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court’s determination of which family members continue to receive assistance.

**MMPHA Policy**

In the event of a family break-up, only one of the qualifying applicants may use the original application. Remaining approved family members may submit a new application using the same date and time awarded to the original application and remain on the waiting list, provided the list is still open.

In the absence of a judicial decision, or an agreement among the original family

members, the PHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risk to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

**Remaining Member of a Tenant Family [24 CFR 5.403]**

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

**Head of Household [24 CFR 5.504(b)]**

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

**MMPHA Policy**

The family may designate any qualified family member as the head of household.

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

**Spouse, Co head and other Adult**

A family may have a spouse or co head but not both [HUD 50058 IB, p13] Spouse means the marriage partner of the head of household. Co head is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can only have one co head. Other adult means a family member, other than the head, spouse, or co head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

**Persons with Disabilities and Disabled Family [24 CFR 5.403]**

**Persons with Disabilities**

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co head is a person with disabilities. The PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person’s disability.

**Disabled Family**

A disabled family is one in which the head, spouse, or co head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income. Even though a person with drug and alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying assistance for the reasons related to alcohol and drug abuse or from terminating assistance.

**Guest [24 CFR 5.100]**

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

**MMPHA Policy**

A guest can remain for no more than 15 Consecutive days during the term of the lease. Children who are subjective to a joint custody arrangement or for whom a family has visitation privileges and are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limits of a guest. A family may request an exception to this policy for a valid reason. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

**Foster Children and Foster Adults**

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609]. The term foster child is not specifically defined by the regulations. Foster children and foster adults living with an applicant or assisted family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD 50058 IB p 13].

**MMPHA Policy**

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

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

**Absent Family Members**

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

**MMPHA Policy**

An individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer a family member.

**MMPHA Policy**

**Definitions of Temporarily and Permanently Absent**

**Absent Student**

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

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

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

**MMPHA Policy**

MMPHA will verify with the appropriate agency whether and when the child is expected to return to the home. Unless the agency confirms the child has been permanently removed from the home, the child will be counted as a family member.

**MMPHA Policy**

**Absent Head, Spouse or Co head**

An employed head, spouse, or co head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

**Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

**MMPHA Policy**

MMPHA will request verification from a responsible medical professional and will use this for determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence the family member is confined on a permanent basis and request the person not be considered a family member.

**MMPHA Policy**

**Return of Permanently Absent Family members**.

The family must request approval for the return of any adult family members the PHA has determined to permanently absent. The individual is subject to the eligibility and screenings requirements.

**Live** -**in Aide**

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

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

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

**MMPHA Policy**

A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional physician that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family. The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

* The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
* The person commits drug-related criminal activity or violent criminal activity; or
* The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

**Basic Eligibility Criteria**

**Income Limits**

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

**Types of Low-income Families [24 CFR 5.603(b)]**

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

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

Extremely low income family: A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

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

Income limits are used for eligibility only at admission. Eligibility is establi**s**hed by comparing a family’s annual income with HUD’s published income limits. To be income eligible, a family must be one of the following:

* A very low-income family
* A low-income family that has been “continuously assisted” under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act programs at the time family is admitted to the HCV program [24 CFR 982.4]
* A low-income family that qualifies for voucher assistance as a non purchasing household living in HOPE 1(public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173.
* A low-income or moderate-income family that is displaced as a result of the prepayment mortgage or voluntary termination of a mortgage insurance contract on eligible low income housing as defined in 24 CFR 248.101.

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

**MMPHA Policy**

MMPHA will allow the four income eligible categories allowed by HUD and have not established any additional categories.

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

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

**Citizenship OR Eligible Immigration Status [24 CFR 5, Subpart E**]

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply.

**Declaration [24 CFR 5.508]**

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

**U.S. Citizens and Nationals**

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

**Eligible Noncitizens**

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

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

**Ineligible Noncitizens**

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

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

**Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice their assistance will be prorated and that they may request a hearing if they contest this determination.

**Ineligible Families [24 CFR 5.524(d), (e), and (f)]**

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

**MMPHA Policy**

MMPHA will not provide assistance to a family before the verification of at least one family member. If the applicant family does not include any citizens, national, or eligible noncitizens the family will be sent a notice of denial. The notice will explain the reason(s) for denial and provide the family information for an informal hearing.

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

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person’s occupancy, whichever comes first. If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)]. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

**SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]**

For every family member, the family must provide documentation of a valid Social Security Number (SSN) or certification stating no SSN has been issued. If a family member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual’s parent or guardian [ 24 CFR 5.216 (j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. If a new member is added to the family, the new member’s SSN documentation must be submitted at the time they are added to the household. If any member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted within ten days. The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

**FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

HUD requires each adult family member and the head of household, spouse, or co head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance.

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

**Students Enrolled in Institutions of Higher Education [24 CFR 5.612 and FR Notice 4/10/06]**

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be examined along with the income eligibility of the student’s parents. In these cases, both the student and the student’s parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with PHA policy, the income of the student’s parents will not be considered in determining that student’s eligibility.

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

**Definitions**

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

**Dependent Child**

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

**MMPHA Policy**

**Independent Student**

MMPHA will consider a student “independent” from his or her parents and the parent’s income will not be considered when determining the student’s eligibility if the following four criteria are all met:

* The individual is of legal contract age under state law.
* The individual has established a household separated from his/her parents for at least one year prior to application for occupancy or if the individual meets one or more of the following criteria;
* Be at least 24 years old by December 31 of the award year for which the aid is sought
* Be an orphan or a ward of the court through the age of 18
* Be a veteran of the U.S. Armed Forces
* Have one or more legal dependents other than a spouse.
* Be a graduate or professional student
* Be married
* The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents’ most recent tax forms.
* The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. The certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided. The PHA will verify that a student meets the above criteria in accordance with policy.

**Institution of Higher Education**

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

**Parents**

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

**Veteran**

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

**Determining Student Eligibility**

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

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

* Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligibility for the program
* Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section.
* Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program
* If the PHA determines that the student, the student’s parents (if applicable), or the student’s “family” is not eligible, the PHA will send a notice of denial in accordance with policy, and the applicant family will have the right to request an informal review.

**Determining Parental Income Eligibility**

For any student who is subject to the 5.12 restrictions and who does not satisfy the definition of independent student in this section, the PHA will determine the income eligibility of the student’s parents are follows:

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

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

**DENIAL OF ASSISTANCE**

A family that does not meet the eligibility criteria of family/household members or basic eligibility must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance base on certain types of current or past behaviors of family members.

**Forms of Denial [24 CFR 982.552 (a) (2)];** Denial of assistance includes any of the following:

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

**Prohibited Reasons for Denial of Assistance [24 CFR 982.202(b)]**

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

* Age, disability, race, color, religion, sex, or national origin.
* Where a family lives prior to admission to the program.
* Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family’s ability to move outside the PHA’s jurisdiction.
* Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
* Whether the family includes children.
* Whether a family decides to participate in a family self-sufficiency program.

Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

**Mandatory Denial of Assistance [24 CFR 982.553(a)]**

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

1. Any member of the household has been evicted from federally-assisted housing the last 3 years for drug-related criminal activity.

HUD permits, but does not require, the PHA to admit an otherwise-eligible family if The household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (for example, the criminal household member has died or is imprisoned). The PHA determines that any household member is *currently engaged in* the use of illegal drugs.

**MMPHA Policy**

The PHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past 3 years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime has died or is imprisoned.

“Currently engaged in” is defined as any use of illegal drugs during the previous six months.

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

**MMPHA Policy**

In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest.

* Any household member has ever been convicted or drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
* Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
* Placing the family’s name on the software (SACS) for the record, but then dropping them from the program for an appropriate reason.

**Other Permitted Reasons for Denial of Assistance**

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

**Criminal Activity [24 CFR 982.553]**

HUD permits, but does not require, the PHA to deny assistance if the PHA determines any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

**MMPHA Policy**

* If any household member is currently engaged in, or has engaged in, any of the following criminal activities within the past 3 years, the family will be denied assistance:
* Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. [24 CFR 5.100]
* Violent criminal activity, defined by HUD as any criminal activity having as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
* Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity, or In the case of a peace disturbance, applicants) must provide a detailed police report describing the severity of the situation. MMPA will review and determine eligibility on a case by case basis. If the applicant refuses or does not provide the requested police report within the given time frame, the MMPHA will automatically deny the application.
* Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee, or a PHA contractor, subcontractor or agent).

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

* Any conviction for drug-related or violent criminal activity within the past 5 years.
* Any arrest for drug-related or violent criminal activity within the past 5 years.
* Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

In making decision to deny assistance the PHA may, on a case-by-case basis, decide not to deny assistance. The MMPHA has adopted a crime matrix to guide the case by case decision making activity. The matrix is attached at the end of the administrative plan.

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

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

**MMPHA Policy**

**The PHA will deny assistance to an applicant family if:**

* The family does not provide information the PHA or HUD determines is necessary in the administration of the program.
* The family does not provide complete and true information to the PHA
* Any family member has been evicted from federally-assisted housing in the last 5 years.
* Any PHA has ever terminated assistance under the program for any member of the family.
* Any family member has committed fraud, bribery, or any other corrupt criminal act in connection with any federal housing program.
* The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs unless the family repays the full amount of the debt prior to being selected from the waiting list.
* A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

Threatening refers to oral or written threats or physical gestures that communicate the intent to abuse or commit violence. In making its decision to deny assistance the PHA may, on a case-by-case basis, decide not to deny assistance.

**Screening**

**Screening for Eligibility**

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

**MMPHA Policy**

Criminal/Drug background checks are conducted on every household member age eighteen (18) and over. This is currently being completed through LP Police/ Locate Plus, Case.Net, State of Missouri Highway Patrol data base for sexual offenders and the Dru Sjodin National Sexual Offender Public Website. PHAs are required to perform criminal background checks necessary to determine whether any household member is a subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553 (a)(2)(i)].

If the PHA proposes to deny assistance based on a criminal record or 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 applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to denial of admission. [24 CFR 5.903(f) and 5.905(d)]

**Screening for Suitability as a Tenant [24 CFR 982.307]**

The PHA has no liability or responsibility to the owner for the family’s behavior or suitability for tenancy. The PHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

**MMPHA Policy**

MMPHA will not conduct additional screening to determine an applicant family’s suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner’s unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family’s history with respect to factors such as:

payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

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

**MMPHA Policy**

MMPHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information at the time of the initial HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

**Criteria for Deciding to Deny Assistance Evidence [24 CFR 982.553 (c)]**

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

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

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

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family’s past history except in the situations for which denial of assistance is mandated.

**MMPHA Policy**

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

The seriousness of the case, especially with respect to how it would affect other residents

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

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family’s recent history, and the likelihood of favorable conduct in the future

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

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

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

HUD permits PHA’s to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, not reside in the unit.

**MMPHA Policy**

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

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

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

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

**MMPHA Policy**

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

**NOTICE OF ELIGIBILITY OR DENIAL**

If the family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the voucher briefing appointment.

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

**MMPHA Policy**

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

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.5539d)].

**MMPHA Policy**

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

**Prohibition against Denial of Assistance to Victims of Domestic**

**Violence, Dating Violence and Stalking [PUB.L. 109-162]**

The purpose of the Violence against Women Reauthorization Act of 2005 (VAWA), provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant’s family is the victim or threatened victim of that abuse.” VAWA further provides that incidents of actual or threatened domestic violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for termination of the tenancy or occupancy rights of the victim of such violence.

VAWA does not limit the Mid Missouri PHA’s (MMPHA) authority to terminate the tenancy of any tenant if the PHA can demonstrate an actual and imminent threat to other tenants, or applicants, while maintaining a safe environment for MMPHA, Central Missouri Community Action employees, and others.

**MMPHA Policy**

**Victim Documentation**

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest or other person under the tenant’s control and a tenant or immediate family member of the tenant’s family claims that he or she is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, MMPHA will require the individual to submit documentation affirming that claim.

**Documentation must include two elements:**

1. A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and **one of the following:**

A police or court record documenting the actual or threatened abuse, or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification, **HUD form 50066, Certification of Domestic Violence**, **Dating Violence or Stalking** (attachment) and supporting documentation must be submitted to MMPHA within 14 business days after the individual claiming victim status receives a request for such certification. MMPHA and the owner/manager are aware the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk. MMPHA will require the tenant come into the office to pick up the certification form and will work with the tenant to make arrangements that do not place the tenant at risk. This 14-day deadline may be extended at MMPHA’s discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, MMPHA may proceed with assistance termination.

**MMPHA Policy**

MMPHA also reserves the right to waive victim verification requirements and accept only a self-certification from the victim if MMPHA deems the victim’s life to be in imminent danger.

Once a victim has completed certification requirements, MMPHA will continue to assist the victim and may use bifurcation as a tool to remove a perpetrator from assistance. Owners will be notified of their legal obligation to continue housing the victim, while using lease bifurcation as a tool to remove a perpetrator from a unit. MMPHA will make efforts to work with victims of domestic violence before terminating the victim’s assistance.

In extreme circumstances when MMPHA can demonstrate an actual and imminent threat to other participants or employees of MMPHA/Central Missouri Community Action if the participant’s (including the victim’s) tenancy is not terminated, MMPHA will bypass the standard process and proceed with the immediate termination of the family’s assistance.

**Termination or Evicting a Perpetrator of Domestic Violence**

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, “in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority supersedes any local, state, or other federal law to the contrary. However, if MMPHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination or termination of assistance [Pub. L. 109-271].

**MMPHA Policy**

When the actions of a tenant or other family member results in a determination by MMPHA to terminate the family’s lease and another family member claims that the actions involve criminal acts of physical violence against family members or others, MMPHA will request the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time or any approved extension period, MMPHA will bifurcate the lease and evict or terminate the occupancy rights of the perpetrator. If the victim does not provide the certification and supporting documentation, as required, MMPHA will proceed with termination of the family’s lease.

If MMPHA can demonstrate an actual and imminent threat to other tenants or those employed by MMPHA/Central Missouri Community Action if the tenant’s tenancy is not terminated, MMPHA will bypass the standard process and proceed with the immediate termination of the family.

**PHA Confidentiality Requirements**

All information provided to MMPHA regarding domestic violence, dating violence, or stalking, including the fact an individual is a victim of such violence or stalking, must be retained in confidence and may not be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

**Applications, Waiting List and Tenant Selection**

**Applying for Assistance**

Each interested family or individual will be asked to complete a pre-application furnished by MMPHA. These forms are available at CMCA Family Resource Centers located in each of the six (6) counties where the program is available; it may also be found on the CMCA web page, [www.showmeaction.org](http://www.showmeaction.org) where you can print the application and return to our office or you can submit the application online, or it can be obtained by calling the offices of the MMPHA or CMCA’s central office. A pre-application can also be mailed to the interested applicant.

Pre-applications must be returned by mail or in person to the MMPHA office (processing center) at the address listed on the pre-application. Faxes are not acceptable as original signatures on the pre-application are required.

MMPHA requires families to provide information to make an initial assessment of the family’s eligibility and to determine the family’s placement on the wait list. The family will be required to provide additional information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Pre-applications must be returned complete in order to be accepted by the PHA for processing. If a pre-application is incomplete, the PHA will reject the pre-application. For a pre application to be considered complete all pages requiring a signature must be signed. The applicant must also provide copies of birth certificates and social security cards for all household members and for everyone age eighteen (18) and older, a photo ID for everyone age eighteen (18) and older.

The processing center will complete the following background checks before the Pre-application is placed on the wait list:

Criminal/Drug background checks are conducted on every household member age eighteen (18) and over. MMPHA will complete “sexual offender for lifetime registrants” background checks on every household member age eighteen (18) and over at time of pre-application. Sexual offender background checks are completed by checking the State of Missouri Highway Patrol data base for sexual offenders and the Dru Sjodin National Sex Offender Public Website. Criminal background checks are completed by checking Case.net and a contracted service. Screenings are conducted by the Housing Services Specialist or the Assisted Housing Representative (AHR).

Previous Housing Assistance and debts owed to a public housing agency/authority must be verified. This is completed through the Enterprise Income Verification (EIV) system, SACS Applicant Inquiry, and by verification of previous housing information the applicant has provided. The screenings are completed by the Housing Services Specialist or the AHR to verify the applicant does not owe money to another Public Housing Agency (PHA) and the applicant left the program in good standing. Debt owed and/or termination information will be maintained in EIV for a period of ten (10) years from the end or participation. Future requests (application) for HUD rental assistance may be denied for a period of up to ten (10) years from the date the tenant moved out of an assisted unit or was terminated from a housing program.

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

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

**MMPHA Policy**

If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list, but MMPHA will place the family’s name on the software (SACS) for the record. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of {receiving a complete application} completion of the required screenings. The notice will specify the reason(s) for ineligibility, and will inform the family of its rights to request an informal review and explain the process for doing so.

The PHA will send written notification of the preliminary determination within 10 business days of {receiving a complete application} completion of the required screenings.

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

Applicants will be placed on one wait list for the jurisdiction of the PHA by the date and time the completed application was received and according to PHA preferences, if any, that apply.

**ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]**

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

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

Applicant name

Family unit size

Date and Time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

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

**MMPHA Policy**

MMPHA will maintain a single waiting list for the HCV program.

MMPHA will maintain a waiting list for the VASH Program and Port IN clients

**OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]**

**Closing the Waiting list**

A PHA is permitted to close the waiting list if the PHA determines the existing waiting list contains an adequate pool for use of available program funding. The PHA may stop accepting new applications or may accept only applications meeting criteria adopted by the PHA.

The PHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months.

**MMPHA Policy**

MMPHA will announce by public notice the closing of the waiting list. Notice will be published in the 2 major newspapers in the service area, will be posted at each Family Resource Center, and on the CMCA agency web page, that, until further notice, applications will no longer be accepted. Such notice will be provided 10 business days prior to the actual discontinuation of taking applications.

The 2 major newspapers to be used are the Jefferson City News Tribune and the Boonville Daily News.

**Reopening the Waiting List**

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

**MMPHA Policy**

MMPHA will announce, by public notice, the opening of the waitlist. This will follow the same procedure as closure of the list. Notice will be published in the 2 major newspapers in the service area, will be posted at each Family Resource Center, and on the CMCA agency web page stating MMPHA will begin accepting applications in 10 business days.

The 2 major newspapers to be used are the Jefferson City News Tribune and the Boonville Daily News.

**FAMILY OUTREACH**

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

Because HUD requires the PHA to serve a specified percentage of extremely low families, the PHA may need to conduct special outreach to ensure an adequate number of such families apply for assistance.

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

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

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

* Submitting press releases to local newspapers, including minority newspapers
* Developing informational materials and flyers to distribute to other agencies
* Providing application forms to other public and private agencies serving low income populations
* Developing partnerships with other organizations that serve similar populations, including agencies that provided services to people with disabilities.

MMPHA Policy

Examples of MMPHA outreach, if needed, will include various media’s as deemed necessary.

Clients who utilize the CMCA family development services will be informed of the housing assistance program as part of their initial intake.

MMPHA will hold discussions with concerned citizens, agency & program participants, landlords/owners/agents, other social service agencies and their staff.

A brochure is given to all interested parties explains how Section 8 Rental Assistance works and answers the most frequently asked questions.

**REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

MMPHA requires that an applicant family on the waiting list must immediately inform MMPHA of any changes in their mailing address. The change must be submitted in writing.

**UPDATING THE WAITING LIST [CRF 24 982.204]**

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

**Purging the Waiting List**

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

The PHA will update the waiting list at least annually to ensure all applicant contact information is current.

**MMPHA Policy**

To update the waiting list, MMPHA will contact all families on the waiting list by first class mail at least annually to see if they are still interested in the program unless the oldest application on the wait list is 18 months old or less. This contact letter will be sent to the last known address MMPHA has on record for the family. The contact letter will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant’s name being removed from the waiting list.

The family’s response must be in writing and may be delivered in person or by mail to the address provided on the notice. No phone call responses will be accepted. Responses must be postmarked or received by the PHA no later than 10 business days from the date of the PHA letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

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

If a family is removed from the waiting list for failure to respond, the Economic Development Direct, or Executive Director, or Rental Assistance Program Manager may reinstate the family if he/she determines the lack of response was due to PHA error, or to circumstances beyond the family’s control.

**Removal from the Waiting List**

If, at any time while an applicant family is on the waiting list, the PHA determines the family is not eligible for assistance, the family will be removed from the waiting list.

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

**SELECTION FOR HCV ASSISTANCE**

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

**MMPHA Policy**

As vouchers become available, MMPHA will notify the next applicant(s) on the waiting list to attend an activation appointment where they will complete required forms for verification.

**Selection Method**

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

**Local preferences [24 CFR 982.207]**

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

**MMPHA currently uses the following local preferences:**

* Participants who, due to lack of sufficient funding from HUD, are terminated from participation in the program through the lottery process.
* Placement on the wait list will be determined by the placement of the lottery drawing. (I.e. first tenant drawn to be taken off the program will be placed first on the waiting list.)
* Verifiably Homeless as defined by most current HUD regulations
* Verifiably in a Domestic Violence Shelter
* Resident of a Federally Declared Natural Disaster Area
* Resident of a State Declared Natural Disaster Area
* Order of Selection

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

**MMPHA Policy**

MMPHA selects families from the waiting list by the date and time of application. Each application is given a computer generated number. If the family has qualified for a local preference, they may be selected from the waiting list ahead of a higher placed family that does not qualify for the local preference. All local preference applicants will be selected in numerical order based on the numbers assigned at the time the application was placed on the waiting list.

**Notification of Selection**

When a family has been selected from the waiting list, the PHA must notify the family.

**MMPHA Policy**

MMPHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

* Date, Time and Location of the scheduled activation
* Who is required to attend the activation
* Documents that must be provided at the activation to document the legal identity of household members, including information about what constitutes a acceptable documentation
* Other documents and information that should be brought to the activation

If the activation letter is returned to MMPHA with no forwarding address, the family will be removed from the waiting list. If the returned letter has forwarding address the activation letter will be forwarded.

**The Application Briefing and Voucher Issuance**

HUD recommends the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an activation appointment or briefing does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend the activation appointment or briefing due to their disability.

**MMPHA Policy**

MMPHA requires that families selected from the waiting list to attend the activation appointment and a briefing. All members of the household age 18 and over are required to attend the activation appointment. The family must provide all required documentation necessary to establish the family’s eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any information is missing MMPHA will provide a written list of items that must be submitted.Any required documents or information the family is unable to provide at the activation appointment must be provided within 10 business days of the activation. If the required documents and information are not provided within the required time frame, plus any extensions, the family will be sent a notice of denial.

An in-depth briefing to all applicants will be conducted by the Assisted Housing Representative or Housing Services Specialist. If a large number of applicants are coming off the waiting list at one time, this briefing will be completed as a group. If the family is unable to attend a scheduled briefing, the family should contact MMPHA in advance of the briefing to schedule an individual appointment. Applicants who fail to attend the briefing or the individual appointment without the approval of MMPHA will be denied assistance based on the family’s failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policy. These briefings shall cover those areas specified in the HUD regulations [24 CFR 982.301(a). Each briefing must provide information on the following subjects:

* How the Housing Choice Voucher program works;
* Family and Owner responsibilities;
* Where the family can lease a unit, including renting a unit inside or outside of the PHA’s jurisdiction;
* For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the briefing must include an explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures.
* For families living in high-poverty census tracts, and explanation of the advantage of moving to areas outside of high-poverty concentrations.

**Briefing Packet [24 CFR 982.301(b)]**

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

* The term of the voucher,
* The PHA’s policies on any extensions or suspension of the term.
* If the PHA allows extension, the packet must explain how the family can request an extension.
* A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility schedule.
* An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
* Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
* The HUD-required tenancy addendum, which must be included in the lease.
* The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for tenancy.
* A statement of the PHA policy on providing information about families to prospective owners.
* The PHA subsidy standard including when and how exceptions are made.
* The HUD brochure on how to select a unit.
* The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
* Information on federal, state and local equal opportunity laws and a copy of the housing discrimination compliant form.
* A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
* Notice that if the family includes a person with disabilities, the family may request a list of available accessible units know to the PHA.
* The family obligations under the program, including any obligations of a welfare to-work family.
* The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
* PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing. The contents and purpose of each item in the briefing packet will be explained.

**MMPHA Policy**

Because part of the MMPHA jurisdiction is in a metropolitan area the briefing packet will include additional information on Expanding Housing Opportunities [24 CFR 985.3(g)].

Additional information includes:

* Maps showing areas with housing areas outside areas of poverty or minority concentration.
* Information about services and assistance available through CMCA, i.e.: programs on budgeting, money management, home matters, weatherization, energy assistance, Head Start. Participation in these programs is encouraged so that families can achieve self-sufficiency.
* Information about services and programs offered through other social services programs, i.e.: family support division, child support enforcement, county health departments, schools and colleges.
* Information on other housing agencies and authorities in neighboring areas for use in portability requests.

**Family Obligations**

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

**Time frames for reporting Changes Required by Family Obligations**

MMPHA requires the family to respond to a request or notify MMPHA of a change in Family Obligations within 10 business days.

**Family Obligations [24 CFR 982.551]**

Following is a list of a participant family’s obligations under the HCV program:

The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

The family must supply any information request by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

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

Any information supplied by the family must be true and complete.

The family must maintain the housing and is responsible for any Housing Quality Standards (HQS) breach by the family caused by (1) failure to pay tenant-provided utilities, (2) failure to provide tenant-provided appliances, or (3) damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

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

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

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

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

The family must promptly give the PHA a copy of any owner eviction notice.

The family must use the assisted unit for residence by the family. The unit must be the family’s only residence.

The composition of the assisted family residing in the unit must be approved by the PHA.

The family must promptly notify the PHA in writing of the birth, adoption, or court awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. MMPHA requires that when adding a family member a request must be submitted in writing and the family must receive approval prior to the person moving into the unit. The new member must meet eligibility criteria.

Any request to add a family member must also be approved by the landlord in writing.

The family must also promptly notify the PHA in writing if any family member no longer lives in the unit.

If the PHA has given approval, a foster child or a live-in aide may reside in the unit, the PHA has the discretion to adopt reasonable policies concerning residency by a foster child or live-in aid, and to define when PHA consent may be given or denied.

The family must not sublease the unit, assign the lease, or transfer the unit.

The family must supply any information requested by the PHA to verify the family is living in the unit or information related to family absence from the unit.

The family must promptly notify the PHA when the family is absent from the unit.

The family must pay utility bills and provide and maintain any appliances the owner is not required to provide under the lease. [Form HUD-52646, Voucher].

The family must not own or have any interest in the unit.

Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

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

An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or different unit, under any other federal, state, or local housing assistance program.

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

**Determining Family Unit (Voucher) Size [24 CFR 982.402]**

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size of the voucher issued to the family.

The family unit size does not dictate the size of the unit the family will actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

**The following requirements apply when the PHA determines family unit size:**

The subsidy standards must provide the smallest number of bedrooms needed to house a family without overcrowding.

The subsidy standards must be consistent with space requirements under housing quality standards.

The subsidy standards must be applied consistently for all families of like size and composition.

A child who is temporarily away from home because of placement in foster care is considered a member of the family in determining the family unit size.

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

Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;

Unless a live-in aide resides with a family, the family unit size for any family consisting of a single person must be zero- or one-bedroom unit as determined under the PHA subsidy standard.

MMPHA Uses the Following Guidelines to Determine Bedroom Size

1. One Bedroom:
   * + Single Individual,
     + Single Person with One Child under age 4
     + Couple with No Children
2. Two Bedroom:
   * + - Handicapped or Elderly individual who requires a live in caretaker;
       - Single parent with One Child age 4 or older regardless of sex;
       - Single parent with Two Children same sex;
       - Single parent with Three Children one under age 4;
       - Couple with One Child;
       - Couple with Two Children same sex;

**Age and Sex of Children Will Determine Difference between a 3 or 4 Bedroom**

1. Three Bedroom
   * Single parent with Three Children all above age 4
   * Single parent with Two Children over age 4 opposite sex
   * Couple with Two Children opposite sex
   * Couple with Three Children
   * Couple with Four Children two boys/two girls
2. Four Bedroom--Follow These Rules
   * NO more than two persons to a bedroom
   * Same Sex, age makes no difference

**Exceptions to Subsidy Standards**

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines the exception is justified by the health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402 (b) (8)]. Reasons may include, but are not limited to:

* A need for an additional bedroom for medical equipment
* A need for a separate bedroom for reasons related to a family member

**MMPHA Policy**

MMPHA will consider granting an exception for any of the reasons specified in the regulation: the health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standard in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Request based on health-related reasons must be verified by a person with a license to diagnosis, and contain a reasonable nexus between the disability and the request for an additional bedroom, unless the nexus between the disability and the disability request for accommodation is readily apparent or otherwise know.

MMPHA will notify the family of its determination within 10 business days of receiving the family’s written request. If a participant family’s request is denied, the notice will inform the family of their right to request an informal hearing.

**Voucher Issuance [24 CFR 982.302]**

When a family is selected from the waiting list, or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646.

The voucher is the family’s authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of the voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence the PHA has determined the family to be eligible for the program and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by issuance of the voucher, and the voucher does not give the family any right to participate in the PHA’s housing choice voucher program [Voucher, form 52646].

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on information received within 60 days prior to issuance [24 CFR 982.201 (e)] and the family has attended the briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list. If the PHA determines there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

**Voucher Term [24 CFR 982.303]**

**Voucher Term, Extensions, and Suspensions**

The initial term of a voucher must be at least 60 calendars days. The initial term must be stated on the voucher [24 CFR 982.303 (a)].

* MMPHA will issue the initial voucher for a period that will not exceed 60 days. The primary responsibility for locating a unit belongs to the voucher holder. The Assisted Housing Representative (AHR) or Assisted Housing Rep will maintain a list of owners for each county willing to lease or have properties available to lease under the Housing Choice Voucher Program (Section 8). Located at each county family resource center is a bulletin board available for landlord/owners/managers to post notices of available units for that county. At the family’s written request, the AHR will help the family by contacting owners for available units. The AHR will also at the request of the family help negotiate the rent. [CFR 982.506]
* MMPHA will also maintain a list of handicapped assessable units in the area.

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

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions the PHA can approve. Discretionary policies related to extensions and expiration of search time must be described in the PHA’s administrative plan [24 CFR 982.54].

PHA’s must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

**MMPHA Policy**

The family may request a 30 day extension by submitting a written request to the Section 8 Office. This written request must be received by the Section 8 Office in Columbia Missouri 7 days prior to the expiration date on the original voucher.

**When granting the extension MMPHA will consider the following:**

1. Local housing market-availability of units.
2. Family’s level of effort to find a suitable unit during the initial term.
3. Whether there is a reasonable possibility that the family may, with additional advice and assistance, find a suitable unit.
4. Level of support services requested by and provided to the family.
5. Extenuating circumstances that prevent the family from finding a unit such as –
   1. Serious illness in the family
   2. Death in the family
   3. Family emergency
   4. Obstacles due to employment
   5. Whether the family has already submitted request for approval of the tenancy for units that were not approved by the PHA
   6. Whether family size or other special requirements made finding a unit difficult

MMPHA will provide to each family at the time of the briefing a Request for Extension form and a Housing Search Progress Report form.

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

At its discretion, a PHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RFTA) during the voucher term. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RFTA until the time the PHA approves or denies the request [24 CFR 982.4]. The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554 (c) (4)].

While the RFTA is being approved, the time counted against the sixty (60) days will be tolled; this time will not be counted against the sixty (60) day total of the voucher.

**MMPHA Policy**

If the family’s voucher term expires before the family has submitted a RFTA, MMPHA requires the family to reapply for assistance. If the family has submitted a RFTA prior to the expiration date of the voucher and it was disapproved by the PHA (after the voucher was expired) the family will be required to reapply for assistance.

**ANNUAL INCOME**

The general regulatory definition of *annual income* shown below is from [24 CFR 5.609.]

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

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

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

* Annual Income Inclusions (Exhibit 6-1)
* Annual Income Exclusions (Exhibit 6-2)
* Treatment of Family Assets (Exhibit 6-3)
* Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
* The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D).

**Household Composition and Income**

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

|  |  |
| --- | --- |
| **Summary of Income Included and Excluded by Person** | |
| Live-in aides | Income from all sources is excluded [24 CFR 5.609(c) (5)]. |
| Foster child or foster adult | Income from all sources is excluded [24 CFR 5.609(c) (2)]. |
| Head, spouse, or co head Other adult family members | All sources of income not specifically excluded by the regulations are included. |
| Children under 18 years of age | Employment income is excluded [24 CFR 5.609(c) (1)].  All other sources of income, except those specifically excluded by the regulations, are included. |
| Full-time students 18 years of age or older (not head, spouse, or co head) | Employment income above $480/year is excluded [24 CFR 5.609(c) (11)].  All other sources of income, except those specifically excluded by the regulations, are included. |

**Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

**MMPHA Policy**

Generally an individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy will be decided on a case by case basis.

**MMPHA Policy**

***Absent Students***

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

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

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

**MMPHA Policy**

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

**MMPHA Policy**

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

An employed head, spouse, or co-head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

**MMPHA Policy**

***Absence due to Incarceration***

Members absent from the household due to incarceration for longer than 45 consecutive days will be considered to be permanently absent and no longer a family member

**Family Members Permanently Confined for Medical Reasons**

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

**MMPHA Policy**

MMPHA will request verification from a responsible medical professional and will use this determination as to permanent confinement in a nursing home or hospital. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

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

**MMPHA Policy**

**Joint Custody of Dependents**

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 51 percent of the time.

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

**MMPHA Policy**

**Caretakers for a Child**

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, MMPHA will take the following actions.

If a responsible agency has determined another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm the caretaker’s role is temporary. In such cases MMPHA will extend the caretaker’s status as an eligible visitor.

At any time custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

**ANTICIPATING ANNUAL INCOME**

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a) (2)]. Policies related to anticipating annual income are provided below.

**Basis of Annual Income Projection**

MMPHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

* An imminent change in circumstances is expected
* It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
* The PHA believes past income is the best available indicator of expected future income [24 CFR 5.609(d)]

**MMPHA Policy**

When MMPHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), they will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to MMPHA to show why the historic pattern does not represent the family’s anticipated income.

***Known Changes in Income***

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

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA’s policy does not require interim reexaminations for other types of changes.

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

HUD strongly recommends the use of up-front income verification (UIV). UIV is “the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals” HUD allows PHAs to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

**MMPHA Policy**

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

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

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

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

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

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

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

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

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

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

**EARNED INCOME**

**Types of Earned Income Included in Annual Income**

***Wages and Related Compensation:*** The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

***Some Types of Military Pay:*** All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b) (8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c) (7)].

**Types of Earned Income Not Counted in Annual Income *Temporary, Nonrecurring, or Sporadic Income***[24 CFR 5.609(c) (9)].

This type of income (including gifts) is not included in annual income.

**MMPHA Policy**

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

***Children***’***s Earnings*:** Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c) (1)].

***Certain Earned Income of Full-Time Students*:** Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c) (11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

***Income of a Live-in Aide*:** Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c) (5)].

***Income Earned under Certain Federal Programs*:** Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c) (17)], including:

* Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
* Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
* Awards under the federal work-study program (20 U.S.C. 1087 )
* Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
* Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
* Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

***State and Local Employment Training Programs*:** Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

**MMPHA Policy**

MMPHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

MMPHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, MMPHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the MMPHA's interim reporting requirements.

***HUD-Funded Training Programs*:** Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c) (8) (i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

**MMPHA Policy**

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

***Earned Income Tax Credit*:** Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c) (17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

***Earned Income Disallowance****:* The earned income disallowance for persons with disabilities is discussed below

**EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES   
[24 CFR 5.617]**

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as at the end of this section. Eligibility criteria and limitations on the disallowance are summarized below.

**Eligibility**

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

* Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
* Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
* New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

**Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member’s current income with his or her “prior income.”

**MMPHA Policy**

MMPHA defines *prior income,* or *prequalifying income,* as the family member’s last certified income prior to qualifying for the EID.

The family member’s prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

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

**MMPHA Policy**

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

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

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

**MMPHA Policy**

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

**BUSINESS INCOME [24 CFR 5.609(b) (2)]**

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

**Business Expenses**

Net income is “gross income less business expense” [HCV GB, p. 5-19].

**MMPHA Policy**

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

**Business Expansion**

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

**MMPHA Policy**

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

**Capital Indebtedness**

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

**MMPHA Policy**

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

**Negative Business Income**

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

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

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

**MMPHA Policy**

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

**MMPHA Policy**

**Co-owned Businesses**

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

**ASSETS [24 CFR 5.609(b) (3) and 24 CFR 5.603(b)]**

There is no asset limitation for participation in the HCV program. However, HUD requires the PHA include in annual income the “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b) (3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

How the value of the asset will be determined

How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b) (3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

**General Policies**

***Income from Assets***

As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

**MMPHA Policy**

MMPHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to MMPHA to show why the asset income determination does not represent the family’s anticipated asset income.

***Valuing Assets***

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

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

**MMPHA Policy**

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs].

***Imputing Income from Assets [24 CFR 5.609(b) (3)***]

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

***Determining Actual Anticipated Income from Assets***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

***Jointly Owned Assets***

The regulation at 24 CFR 5.609(a) (4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

**MMPHA Policy**

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners. An asset is not effectively owned by a family member when (1) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family and (2) that other person is responsible for income taxes incurred on income generated by the asset.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, MMPHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MMPHA will prorate the asset evenly among all owners.

***Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

**MMPHA Policy**

MMPHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $500.

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

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

***Separation or Divorce***

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

**MMPHA Policy**

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

***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

**MMPHA Policy**

***Family Declaration***

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

**Types of Assets**

***Checking and Savings Accounts***

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

**MMPHA Policy**

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

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

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

**MMPHA Policy**

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

***Equity in Real Property or Other Capital Investments***

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

**Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]**

The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]

Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]

Equity in real property when a family member’s main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.

Interests in Indian Trust lands [24 CFR 5.603(b)]

Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

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

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

**MMPHA Policy**

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

***Trusts***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

***Revocable Trusts***

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

***Non-Revocable Trusts***

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section on Lump-sum receipts discussed earlier in this section.)

***Retirement Accounts***

***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (The balance in the account is counted as an asset only if it remains accessible to the family member.

*IRA, Keogh, and Similar Retirement Savings Accounts*

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

**MMPHA Policy**

In determining the value of personal property held as an investment, the PHA will use the family’s estimate of the value. However, the PHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

**MMPHA Policy**

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

***Life Insurance***

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family’s assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

**Periodic Payments**

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

**Periodic Payments Included in Annual Income**

* Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b) (4) and (b) (3)].
* Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b) (4)].

**MMPHA Policy**

When a delayed-start payment is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.

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

See chapter 16 on program administration for policies related to repayment agreements.

**Periodic Payments Excluded from Annual Income**

* Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

**MMPHA Policy**

The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

* Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
* Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
* Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
* Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c) (17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
* Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b) (4)].

**Payments in Lieu OF Earnings**

Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.SS609(c) (3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

**Welfare Assistance**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

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

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

***Covered Families***

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

***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency inform the PHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

***Offsets***

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

**Periodic and Determinable Allowances [24 CFR 5.609(b) (7)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

**Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

**MMPHA Policy**

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

**Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b) (7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c) (9)].

**MMPHA Policy**

Examples of regular contributions include: (1) regular payment of a family’s bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries and clothing provided to a family on a regular basis.

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

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

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

**Student Financial Assistance Included in Annual Income [24 CFR 5.609(b) (9) and FR 4/10/06]**

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

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

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

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

* *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, and State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
* *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
* *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

**Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c) (6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b) (9) is fully excluded from annual income under 24 CFR 5.609(c) (6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

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

**ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

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

* Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
* Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
* Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
* Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
* Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
* Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
* Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
* Amounts specifically excluded by any other federal statute [24 CFR 5.609(c) (17)]. HUD publishes an updated list of these exclusions periodically. It includes:

The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

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

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

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

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

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

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

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

Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *Agent Orange*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

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

The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

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

Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

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

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

Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

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

**ADJUSTED INCOME**

HUD regulations require PHAs to deduct from annual income any of four mandatory deductions for which a family qualifies. The resulting amount is the family’s adjusted income. Mandatory deductions are found in [24 CFR 5.611]

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

**MMPHA Policy**

**Anticipating Expenses**

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

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

**Dependent Deduction**

A deduction of $480 is taken for each dependent [24 CFR 5.611(a) (1)]. *Dependent* is defined as any family member other than the head, spouse, or co head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

**Elderly or Disabled Family Deduction**

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a) (2)]. An *elderly family* is a family whose head, spouse, co head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co head, or sole member is a person with disabilities [24 CFR 5.403].

**MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]**

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

The medical expense deduction is permitted only for families in which the head, spouse, or co head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

**Definition of *Medical Expenses***

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

**MMPHA Policy**

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

|  |  |
| --- | --- |
| **Summary of Allowable Medical Expenses from IRS Publication 502** | |
| Services of medical professionals  Surgery and medical procedures that are necessary, legal, no cosmetic  Services of medical facilities  Hospitalization, long-term care, and in-home nursing services  Prescription medicines and insulin, and nonprescription medicines if recommended by a doctor  Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails) | Substance abuse treatment programs  Psychiatric treatment  Ambulance services and some costs of transportation related to medical expenses  The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)  Cost and continuing care of necessary service animals  Medical insurance premiums or the cost of a health maintenance organization (HMO) |
| **Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source. | |

**MMPHA Policy**

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

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

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

**DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and   
24 CFR 5.611(a)(3)(ii)]**

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

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

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

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

**MMPHA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

**MMPHA Policy**

**Eligible Disability Expenses**

***Eligible Auxiliary Apparatus***

Expenses incurred for maintaining or repairing an auxiliary apparatus is eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

***Eligible Attendant Care***

The family determines the type of attendant care that is appropriate for the person with disabilities.

**MMPHA Policy**

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

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

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

***Payments to Family Members***

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

**Necessary and Reasonable Expenses**

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

**MMPHA Policy**

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

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

**MMPHA Policy**

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

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

**CHILD CARE EXPENSE DEDUCTION**

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

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

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

**MMPHA Policy**

**Qualifying for the Deduction**

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

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

In evaluating the family’s request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

**MMPHA Policy**

***Seeking Work***

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

**MMPHA Policy**

***Furthering Education***

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

**MMPHA Policy**

***Being Gainfully Employed***

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

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

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

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

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

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

**MMPHA Policy**

When the child care expense being claimed is to enable a family member to work, only one family member’s income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable child care expenses to the earned income of the highest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

**Eligible Child Care Expenses**

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

**MMPHA Policy**

***Allowable Child Care Activities***

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

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

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

***Necessary and Reasonable Costs***

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

**MMPHA Policy**

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

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

**Calculating Family Share and PHA Subsidy**

**Rent and Subsidy Calculations**

**TTP Formula [24 CFR 5.628]**

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

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

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

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

**MMPHA Policy**

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

Welfare rent does not apply in this locality.

**MMPHA Policy**

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

The minimum monthly rent for this locality is $50.00

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA’s applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family’s monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family’s voucher was issued.

**PHA Subsidy [24 CFR 982.505(b)]**

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family’s TTP or (2) the gross rent for the family’s unit minus the TTP.

**Utility Reimbursement [24 CFR 982.514 (b)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

**MMPHA Policy**

The PHA will make any utility reimbursements directly to a utility provider. The electric utility provider will receive first priority for payment unless the participant provides a written request for a different utility provider to receive all of the reimbursement. Should the payments to the electric utility provider result in a credit that exceeds the average of 6 months billing or five hundred dollars ($500.00), the participant must designate a second utility provider to receive the payments until the credit has been reduced to no more than one hundred dollars ($100.00).

**MMPHA Policy**

**FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

The financial hardship rules described below applies in this jurisdiction because the PHA has established a minimum rent of $50.00.

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

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

**HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

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

**MMPHA Policy**

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

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

The family would be evicted because it is unable to pay the minimum rent. For a family to qualify under this provision, the cause of the potential eviction must be the family’s failure to pay rent to the owner or tenant-paid utilities:

Family income has decreased because of changed family circumstances, including the loss of employment.

A death has occurred in the family.

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

The family has experienced other circumstances determined by the PHA.

***The PHA has not established any additional hardship criteria.***

**Implementation of Hardship Exemption**

***Determination of Hardship***

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

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

**MMPHA Policy**

The PHA defines temporary hardship as a hardship expected to last 90 days or less.

Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

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

**MMPHA Policy**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent. The PHA will make the determination of hardship within 30 calendar days.

***No Financial Hardship***

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

**MMPHA Policy**

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

***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

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

**MMPHA Policy**

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

***Long-Term Hardship***

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

**MMPHA Policy**

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

(1) At an interim or annual reexamination, the family’s calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

**APPLYING PAYMENT STANDARDS [24 CFR 982.505]**

The PHA’s schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA’s payment standards. The establishment and revision of the PHA’s payment standard schedule are covered in program administration.

***Payment standard:*** is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR 982.4(b)].

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

If the PHA has established an exception payment standard for a designated part of an FMR area and a family’s unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

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

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

**Changes in Payment Standards**

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

***Decreases***

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family’s second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

***Increases***

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

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

***Changes in Family Unit Size***

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

**Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family within the basic range.

**APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See the section on briefing and voucher issuance for information on the PHA’s subsidy standards. For policies on establishing and updating utility allowances, see Chapter 16.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance in writing and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

**Utility Allowance Revisions**

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d)(2)].

**MMPHA Policy**

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

**Prorated Assistance for Mixed Families [24 CFR 5.520]**

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

**Exhibit 6-1: Annual Income Inclusions**

**24 CFR 5.609(a):*****Annual income means all amounts, monetary or not, which:***

Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

Which are not specifically excluded in paragraph (c) of this section.

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

**24 CFR 5.609 (b):*****Annual income includes, but is not limited to:***

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

The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

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

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

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

Welfare assistance payments.

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

Qualify as assistance under the TANF program definition at 45 CFR 260.31[[1]](#footnote-1); and

Are not otherwise excludedunder paragraph (c) of this section.

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

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

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

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

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

For section 8 programs only and as provided in 24 CFR [5.612](https://www.law.cornell.edu/cfr/text/24/5.612), any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 ([20 U.S.C. 1001](https://www.law.cornell.edu/uscode/text/20/1001) et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 ([20 U.S.C. 1002](https://www.law.cornell.edu/uscode/text/20/1002))), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

**24 CFR 5.609 *(c)*** *Annual income does not include the following:*

Income from employment of children (including foster children) under the age of 18 years;

Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

Income of a live-in aide, as defined in Sec. 5.403;

The full amount of student financial assistance paid directly to the student or to the educational institution;

The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

Amounts received under training programs funded by HUD;

Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

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

Temporary, nonrecurring or sporadic income (including gifts);

Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

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

Adoption assistance payments in excess of $480 per adopted child;

[Reserved]

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

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

Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

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

**HHS Definition of "Assistance"**

**45 CFR: General Temporary Assistance for Needy Families**

**260.31 What does the term “assistance” mean?**

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

It includes such benefits even when they are:

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

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

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

b. **Excludes: Nonrecurring, short-term benefits that:**

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

Are not intended to meet recurrent or ongoing needs; and

Will not extend beyond four months.

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

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

Refundable earned income tax credits;

Contributions to, and distributions from, Individual Development Accounts;

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

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

**Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits**

The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

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

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

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

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

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

The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

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

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

Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Orange Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

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

The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

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

Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

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

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

Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

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

**EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS**

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

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

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

***Exhibit 6-4: Earned Income Disallowance for Persons with Disabilities***

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

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

*Definitions.* The following definitions apply for purposes of this section.

***Disallowance*: Exclusion from annual income.**

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

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

Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

Disallowance of increase in annual income—

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

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

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

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

**EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION**

**24 CFR 5.615 Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

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

*Definitions:* The following definitions apply for purposes of this section:

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

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

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

***Specified welfare benefits reduction.***

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

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

At expiration of a lifetime or other time limit on the payment of welfare benefits;

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

Because a family member has not complied with other welfare agency requirements.

Imputed welfare income.

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

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

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

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

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

Review of PHA decision.

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

**Section (1) is not applicable for MMPHA**

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

PHA relation with welfare agency.

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

The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures or for providing the opportunity for review or hearing on such welfare agency determinations.

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

**VERIFICATION**

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

The PHA must verify all information that is used to establish the family’s eligibility and level of assistance and is required to obtain the family’s consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance.

The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

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

**GENERAL VERIFICATION REQUIREMENTS**

**FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

**Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family’s eligibility and level of assistance.

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

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

**VERIFICATION REQUIREMENTS**

**HUD’s Verification Hierarchy**

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

**MMPHA Policy**

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

Up-front Income Verification (EIV/UIV) whenever available

Up-front Income Verifications Non-EIV

Third-party Written Verification

Third-party Written Verification form

Third-party Oral Verification

Tenant Declaration Self-Certification

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

**MMPHA Policy**

**Requirements for Acceptable Documents**

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

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

Print-outs from web pages are considered original documents.

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

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

**File Documentation**

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

**UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA’s use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

**MMPHA Policy**

The PHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

HUD’s EIV system

The Work Number

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

There may be legitimate differences between the information provided by the family and UIV - generated information. No adverse action can be taken against a family until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

**Definition of Substantial Difference**

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004] HUD recommends using $200 per month as the threshold for a substantial difference. The PHA will, therefore, use $200 per month as the threshold for a substantial difference. See the income and subsidy section for the PHA’s policy on the use of UIV to project annual income and for the PHA’s threshold for substantial difference.

**When No Substantial Difference Exists**

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

**When a Substantial Difference Exists**

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

**Use of HUD’s Enterprise Income Verification (EIV) System**

HUD’s EIV system contains data showing earned income, unemployment benefits, and Social Security/ SSI benefits for participant families. HUD requires the PHA to use the EIV system when available. The following policies will apply when the PHA has access to HUD’s EIV system.

The EIV system contains two main components: tenant income data reports and “exceeds threshold” reports.

***Tenant Income Data (TID) Reports***

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

**MMPHA Policy**

The PHA will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in the income and subsidy section. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in the income and subsidy section and also in this section

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies on Program Integrity.

***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on Social Security number, name, and date of birth. When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

**MMPHA Policy**

The PHA will identify participants whose identity verification has failed as part of the annual reexamination process.

The PHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

**THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

**Reasonable Effort and Timing**

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

**MMPHA Policy**

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

The PHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The PHA will send a written request for verification to each required source within 5 business days of securing a family’s authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th day, the PHA will request third-party oral verification.

The PHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, PHA staff will record in the family’s file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

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

**When Third-Party Information is Late**

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

**When Third-Party Verification is not required**

***Primary Documents***

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

***Certain Assets and Expenses***

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB,p. 5-28]. The PHA will determine third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

**MMPHA Policy**

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

***Certain Income, Asset and Expense Sources***

The PHA will determine third-party verification is not available when it is known an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines a third party's privacy rules prohibit the source from disclosing information.

**MMPHA Policy**

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

If the family cannot provide original documents, the PHA will not pay the service charge required to obtain third-party verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

The PHA will document, in the family file, the reason the third-party verification was not available and will place a photocopy of the original document(s) in the family file.

**MMPHA Policy**

**REVIEW OF DOCUMENTS**

**Using Review of Documents as Verification**

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

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

**MMPHA Policy**

**Tenant Declaration Self-Certification**

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

The PHA may require a family to certify a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a PHA representative or PHA notary public.

**Verifying FAMILY INFORMATION**

**MMPHA Policy**

**VERIFICATION OF LEGAL IDENTITY**

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

|  |  |
| --- | --- |
| **Verification of Legal Identity for Adults** | **Verification of Legal Identity for Children** |
| Certificate of birth, naturalization papers  Church issued baptismal certificate  Current, valid driver's license or Department of Motor Vehicles identification card  U.S. military discharge (DD 214)  U.S. passport  Employer identification card | Certificate of birth  Adoption papers  Custody agreement  Health and Human Services ID  School records |

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

If none of these documents can be provided and at the PHA’s discretion, a third party who knows the person may attest to the person’s identity.The certification must be provided in a format acceptable to the PHA and be signed in the presence of a PHA representative or PHA notary public.

Legal identity will be verified on an as needed basis.

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

For every family member, the family must provide documentation of a valid social security number (SSN.

**MMPHA Policy**

The PHA will accept as documentation of a valid social security number (SSN) a social security card or a print-out from the Social Security Administration attesting to a valid social security number.

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

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

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 30 calendar days from the date of the family member’s self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided. Social security numbers must be verified only once during continuously-assisted occupancy.

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

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

**DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

**MMPHA Policy**

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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

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

**MMPHA Policy**

Family relationships are verified only to the extent necessary to determine a family’s eligibility and level of assistance.Certification by the head of household normally is sufficient verification of family relationships.

**MMPHA Policy**

**Marriage**

If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate they hold themselves to be married (e.g. using the same last name, filing joint income tax returns or owning joint property or assets).

**MMPHA Policy**

**Separation or Divorce**

If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

**MMPHA Policy**

**Absence of Adult Member**

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

**MMPHA Policy**

**Foster Children and Foster Adults**

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

**MMPHA Policy**

**VERIFICATION OF STUDENT STATUS**

**General Requirements**

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or co head.

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education.*

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

**MMPHA Policy**

In accordance with the verification hierarchy the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965

The student is at least 24 years old

* The student is a veteran
* The student is married
* The student has at least one dependent child

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student’s income eligibility, the PHA will then proceed to verify either the student’s parents’ income eligibility or the student’s independence from his/her parents (see below).

**MMPHA Policy**

***Independent Student***

The PHA will verify a student’s independence from his/her parents to determine that the student’s parents’ income is not relevant for determining the student’s eligibility by doing all of the following:

Both reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education’s definition of *independent student*

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.

Requesting and obtaining written certification directly from the student’s parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

**DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person’s disability [24 CFR 100.202(c)]. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant’s medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services’ website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

* Inquiry into an applicant’s ability to meet the requirements of ownership or tenancy
* Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
* Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
* Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
* Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

**Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

**MMPHA Policy**

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available. If documentation from HUD’s EIV System in not available the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

**Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran’s disability benefits, worker’s compensation, or other non-SSA benefits based on the individual’s claimed disability are not sufficient verification that the individual meets HUD’s definition of disability in 24 CFR 5.603.

**MMPHA Policy**

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

**CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

**U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

**MMPHA Policy**

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual’s declaration may not be accurate.

**Eligible Immigrants**

***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this section summarizes documents family members must provide.

***PHA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in this plan. No further verification of eligible immigration status is required.

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

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

**Verification of Preference Status**

The PHA must verify any preferences claimed by an applicant.

**MMPHA Policy**

The PHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The PHA will verify this preference using the PHA’s termination records.

The PHA will offer a preference to any family that is homeless as defined by most current HUD regulations. The PHA will verify homelessness through one of the following:

Letter from an Emergency or Transitional Shelter

For those sleeping in a place not fit for human habitation (i.e. car, camp, park) a letter or documentation from a police department, social service worker, or other case worker knowledgeable of the living conditions proving homeless the night before the activation is to take place

Letter or eviction notice, with subsequent court hearing information from individual family member or another person (landlord) documenting the individual is in immediate danger of becoming homeless (i.e. eviction) within 14 days

The PH will offer a preference to any family that is currently in a Domestic Violence Shelter as verified by a letter from the shelter.

The PHA will offer a preference to any family that is currently a resident of a Federally Declared Natural Disaster Area as verified by an FEMA issued disaster number.

The PHA will offer a preference to any family that is currently a resident of a State Declared Natural Disaster Area as verified by a SEMA issued disaster number.

**Verifying Income AND ASSETS**

The income and subsidy section of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified earlier in this section.

**MMPHA Policy**

**Earned Income and Tips**

Unless tip income is included in a family member’s W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

**MMPHA Policy**

**Business and Self Employment Income**

Business owners and self-employed persons will be required to provide: All schedules completed for filing federal and local taxes in the preceding year.

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

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

**MMPHA Policy**

**Periodic Payments and Payments in Lieu of Earnings Social Security/SSI Benefits:**

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

**MMPHA Policy**

**Alimony or Child Support**

The PHA will seek verification for alimony and child support. Verification will be sought in the following order.

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

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

Copy of the latest check and/or payment stubs.

Third-party verification from the person paying the support.

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

Note: Families are not required to undertake independent enforcement action.

**ASSETS AND INCOME FROM ASSETS**

**Verification of Assets (self declaration piece for $5,000 or under)**

HUD Notice 2013-03 permits a PHA to allow households to self-certify as to having assets of less than $5,000. This temporary allowance is in effect until March 31, 2015, unless it is extended by HUD.

**MMPHA Policy**

MMPHA will allow tenants to self certify as to having assets of less than $5,000 until the PIH Notice has expired.

**MMPHA Policy**

**Verifications of Assets over $5,000**

MMPHA will verify the value of assets over $5,000 following the verification matrix shown in attachment 7-1 for assets. The PHA will not pay for third party copies of documents.

**Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

**MMPHA Policy**

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

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son.

The PHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset

**MMPHA Policy**

**Net Income from Rental Property**

The family must provide:

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

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

**MMPHA Policy**

**Retirement Accounts**

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

*Before* retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

**Income from Excluded Sources**

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

**MMPHA Policy**

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

**MMPHA Policy**

**Zero Annual Income Status**

The PHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

**Student Financial Assistance**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b) (9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded

**MMPHA Policy**

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request written verification from the institution of higher education regarding the student’s tuition amount.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy.

**Parental Income of Students Subject to Eligibility Restrictions**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the income of the student’s parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

**MMPHA Policy**

If the PHA is required to determine the income eligibility of a student’s parents, the PHA will request an income declaration and certification of income from the appropriate parent(s). MMPHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 days of the date of the PHA’s request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

**Verifying Mandatory Deductions**

**Dependent and Elderly/Disabled Household Deductions**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions.No further verifications are required.

**Dependent Deduction**

The PHA must verify that:

Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child

Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

**Elderly/Disabled Family Deduction**

See the eligibility section for a definition of elderly and disabled families. The PHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

**Medical Expense Deduction**

Policies related to medical expenses are found in the income and subsidy section. The amount of the deduction will be verified following the standard verification procedures.

**MMPHA Policy**

**Amount of Expense**

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

**Medical expenses will be verified through:**

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

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

**In addition, the PHA must verify that:**

The household is eligible for the deduction.

The costs to be deducted are qualified medical expenses.

The expenses are not paid for or reimbursed by any other source.

Costs incurred in past years are counted only once.

**Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility section of this plan.

**Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses.

**Unreimbursed Expenses**

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

**MMPHA Policy**

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

**MMPHA Policy**

**Expenses Incurred in Past Years**

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

The anticipated repayment schedule.

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family’s annual income in past years.

**Disability Assistance Expenses**

Policies related to disability assistance expenses are found in the income and subsidy section chapter of this plan. The amount of the deduction will be verified following the standard verification procedures.

**MMPHA Policy**

**Amount of Expense *Attendant Care***

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

Expenses for attendant care will be verified through:

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

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

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

**MMPHA Policy**

***Auxiliary Apparatus***

**Expenses for auxiliary apparatus will be verified through:**

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

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

**In addition, the PHA must verify that:**

The family member for whom the expense is incurred is a person with disabilities.

The expense permits a family member, or members, to work.

The expense is not reimbursed from another source.

**Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities.The PHA will verify that the expense is incurred for a person with disabilities.

**Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

**MMPHA Policy**

The PHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**Unreimbursed Expenses**

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

**MMPHA Policy**

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

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**Child Care Expenses**

Policies related to child care expenses are found in the income and subsidy section of this plan. The amount of the deduction will be verified following the standard verification procedures.

In addition, the PHA must verify that:

The child is eligible for care.

The costs claimed are not reimbursed.

The costs enable a family member to pursue an eligible activity.

The costs are for an allowable type of child care.

The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13.

**Unreimbursed Expense**

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

**MMPHA Policy**

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

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

**Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

**MMPHA Policy**

***Information to be Gathered***

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

***Seeking Work***

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

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

***Furthering Education***

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

***Gainful Employment***

The PHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

**Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines.

**MMPHA Policy**

The PHA will verify the type of child care selected by the family is allowable.

The PHA will verify the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify the child care provider is not an assisted family member. Verification will be made through the head of household’s declaration of family members who are expected to reside in the unit.

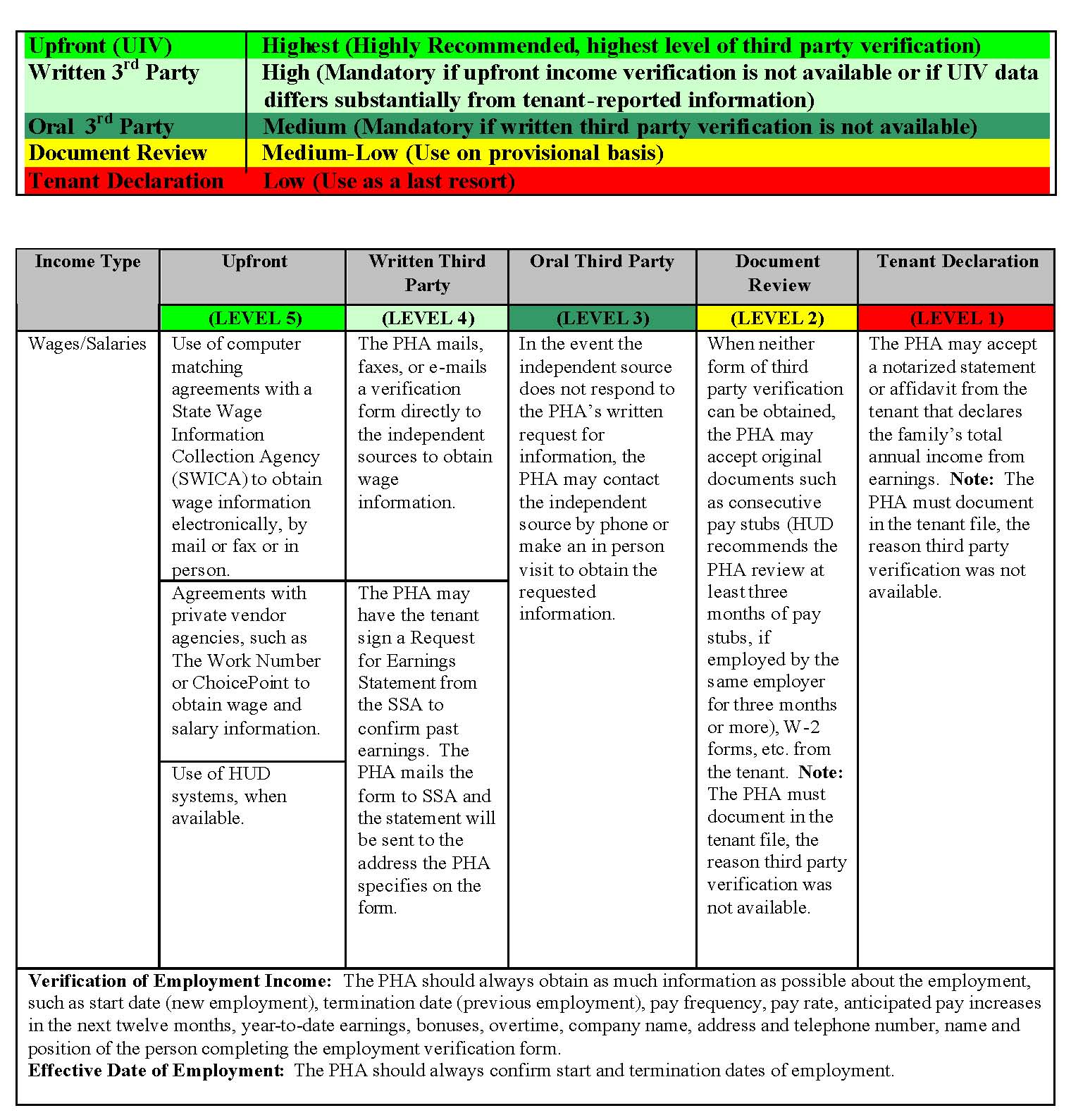
**MMPHA Policy**

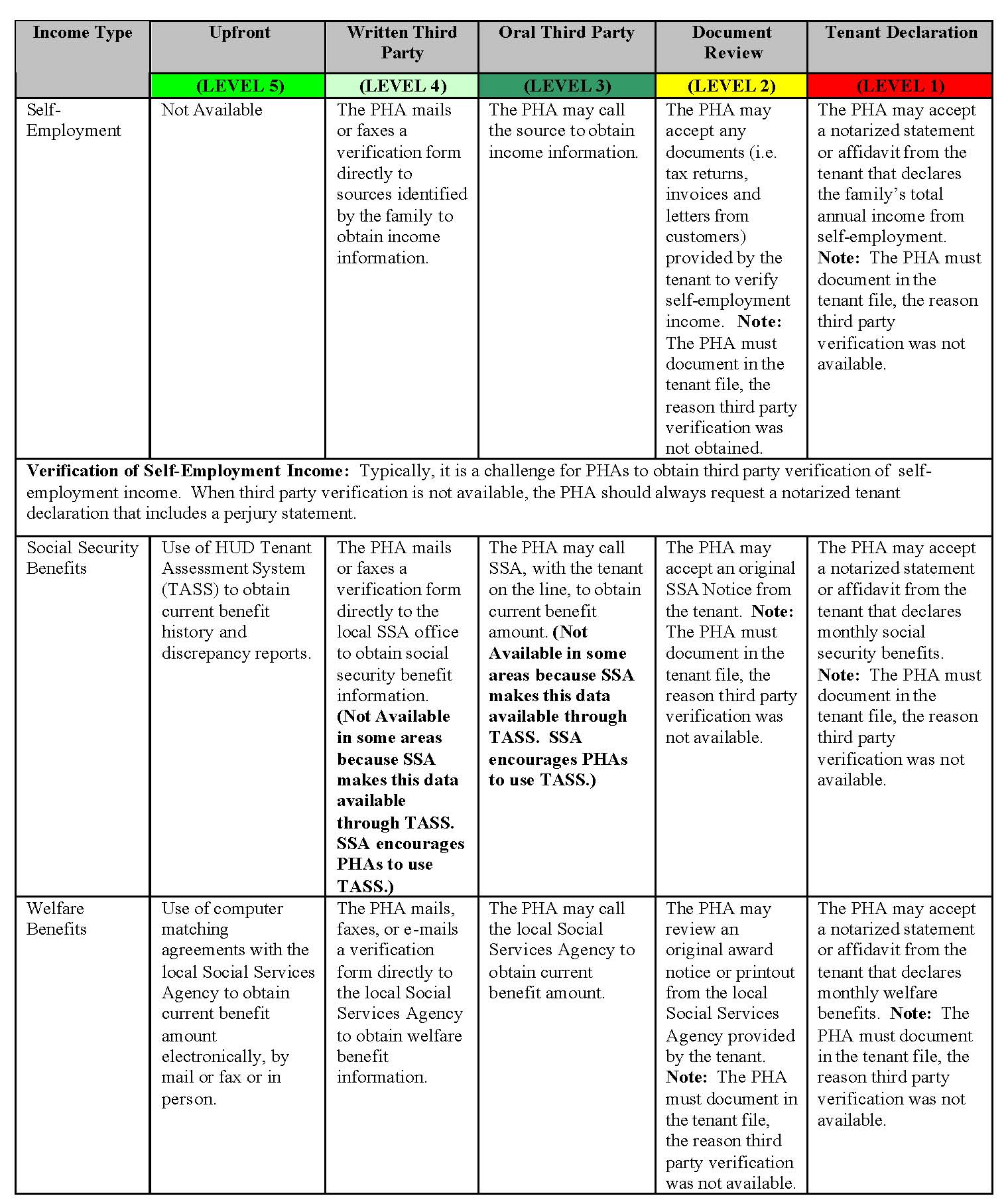
**Reasonableness of Expenses**

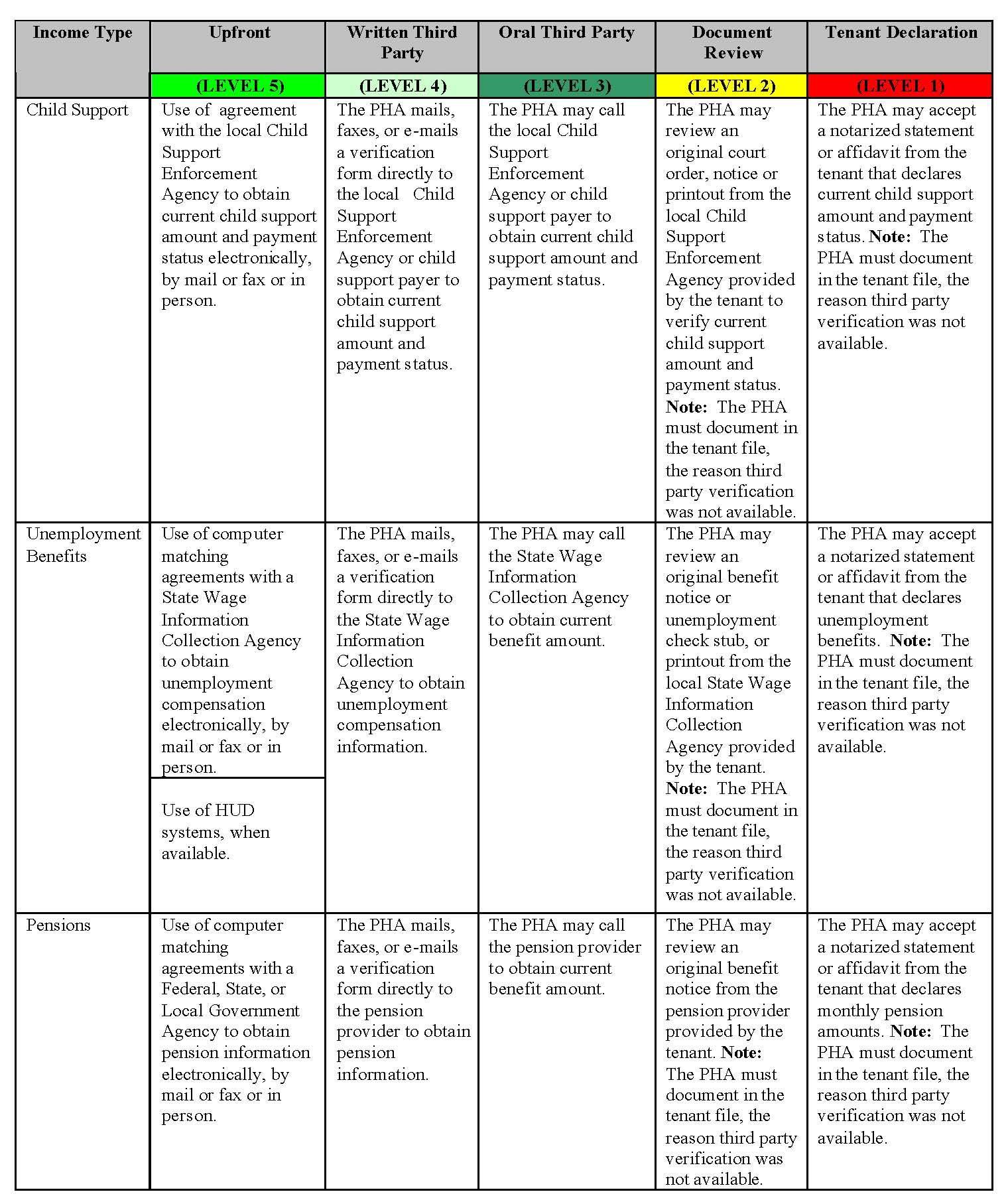
Only reasonable child care costs can be deducted.

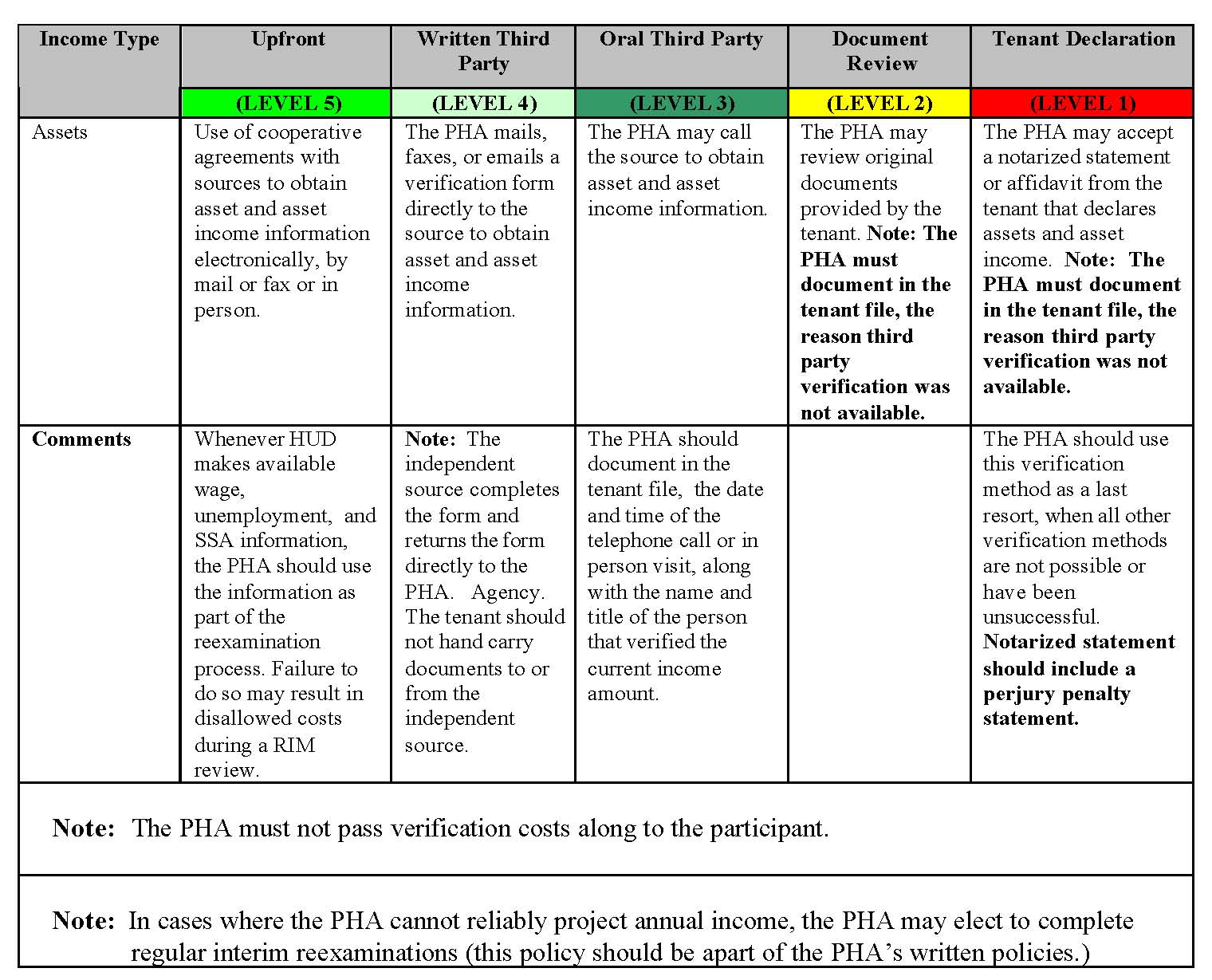
The actual costs the family incurs will be compared with the PHA’s established standards of reasonableness for the type of care in the locality to ensure the costs are reasonable. If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE   
NOTICE (PIH 2004-01, pp. 11-14)**

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**EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS  
FOR NONCITIZENS[HCV GB, pp. 5-9 and 5-10]**

|  |  |
| --- | --- |
| * **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. * Except for persons 62 or older, all noncitizens must sign a verification consent form * Additional documents are required based upon the person's status. | |
| **Elderly Noncitizens**   * A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits. | |
| **All other Noncitizens**   * Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below. | |
| * Form I-551 Alien Registration Receipt Card (for permanent resident aliens) * Form I-94 Arrival-Departure Record annotated with one of the following: * “Admitted as a Refugee Pursuant to Section 207” * “Section 208” or “Asylum” * “Section 243(h)” or “Deportation stayed by Attorney General” * “Paroled Pursuant to Section 221 (d)(5) of the USCIS” | * Form I-94 Arrival-Departure Record with no annotation accompanied by: * A final court decision granting asylum (but only if no appeal is taken); * A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); * A court decision granting withholding of deportation; or * A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). |
| * Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. | Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”. |
| * A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or * Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register* | |

**H OUSING QUALITY STANDARDS AND RENT REASONABLE NESS**

**[24 CFR 982 Subpart I and 24 CFR 982.507]**

HUD requires that all units occupied by families receiving Housing Choice Voucher assistance meet HUD’s Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term “HQS” in this plan refers to combinations of both HUD and PHA established requirements. A unit shall not be placed under a contract until after meeting the HQS inspections requirements and until the required Housing Assistance Payments Contract is signed.

**General HUD Requirements**

HUD’s performance and acceptability standards for HCV-assisted housing are provided in the 24 CFR 982.401. These standards cover the following areas:

* + - Sanitary facilities
    - Food preparation and refuse disposal
    - Thermal Environment
    - Illumination and electricity
    - Structure and materials
    - Interior Air Quality
    - Water Supply
    - Lead-based paint
    - Access
    - Site and neighborhood
    - Sanitary conditions
    - Smoke Detectors

**Tenant Preference Items**

HUD requires the PHA to enforce minimum HQS but also requires certain judgments about acceptability is left to the family. The PHA must ensure the unit contains the required

sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

**Modification to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with disabilities to make necessary and reasonable modifications to the unit. Such modifications are at the family’s expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant’s full enjoyment of the premises. The owner may not increase a customarily required security deposit.

However, the landlord may negotiate a restoration agreement that requires the family to restore the unit.

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform the design, construction, or alteration of facilities contained in the UFSA and the ADA Accessibility Guidelines.

**Life Threatening Conditions**

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of the PHA notification.

**The following are considered life-threatening conditions:**

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when the outside temperature is below 40 degrees Fahrenheit between November 1st and March 31st

Absence of a working air conditioning system when the outside temperature is above 80 degrees Fahrenheit (if unit is provided by the owner) between May 1st and September 30.

Utilities not in service, including no running hot water

Conditions (including conditions outside of the premise) that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

If an owner fails to correct life-threatening conditions as required by the PHA, the housing assistance payment will be abated and the HAP contract will be terminated.

If a family fails to correct a family caused life-threatening condition as required by the PHA, the PHA may terminate the family’s assistance.

The owner will be required to repair an inoperable smoke detector unless the PHA determines the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the detector within 24 hours.

Owners will be notified in writing of any deficiencies. Any emergency will be corrected immediately. Any deficiencies that are a threat to life must be corrected within 24 hours of notice or termination of the contract will result. Any other deficiencies must be corrected within thirty (30) days. If the deficiencies are not corrected, the Owner’s HAP will be abated in accordance with HUD regulations. If the tenant causes the deficiencies, a notice will inform the family that corrections must be completed within a specified time frame and if the corrections are not completed the family will be terminated.

**MMPHA Policy**

MMPHA AHR/Inspectors cover a large service area and it is not always possible for them to return to a unit within 24 hours to re-inspect life threatening repairs. The owner and the tenant must jointly certify in writing the repairs were completed. This statement and all receipts necessary for repairs must be submitted to the AHR/Inspector within 24 hours of the repair(s).

MMPHA will accept a hand written statement or they may use the self certification forms provided.

The AHR/Inspector will, when next in the area, complete a visual inspection verifying the require repairs were completed.

Landlords and tenants can in writing, request an extension for repairs before the expiration date (30 days time frame indicated in deficiency letter) with reasonable reason.

Smoke detectors must be located one on each level and one in each bedroom.

**Abatement of Housing Assistance Payments**

If an owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations. If the owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first day of the month following the specified correction period (including any approved extension) [24CFR 985.3 (f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family’s responsibilities.

**MMPHA Policy**

MMPHA will make all HAP abatements effective as of the last day of month following the expiration of the PHA specified correction period (including an extension).

MMPHA will inspect the abated unit on the next available date after the owner’s notification the work has been completed. Payment will resume effective on the day after the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use abatement as cause for eviction.

**HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, providing the family does so in a reasonable time and must give the owner reasonable notice of termination. The PHA will issue a voucher to permit the family to move to another unit.

The maximum length of time HAP may be abated is 30 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

**MMPHA Policy**

Reasonable notice of HAP contract termination by the PHA is 30 days.

If the landlord has not made the required 30 day repairs within the time period (unless extended by the MMPHA), the landlord will be given a 30 day notice that tenant will be issued a moving voucher and can relocate to another unit. If the tenant does not repair tenant caused deficiencies within the 30 day period, the landlord will be given a 30 day notification of family termination.

**Types of Inspections**

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

Initial Inspections: The PHA conducts initial inspections in response to a request from the family (RFTA form) to approve a unit for participation in the HCV program. The unit must pass HQS inspection before the effective date of the HAP contract.

Annual Inspections: HUD requires the PHA to inspect each unit under lease at least annually to confirm the unit still meets HQS. The inspection may be conducted in conjunction with the family’s annual recertification but also may be conducted separately.

Special Inspections: A special inspection may be requested by the owner, the family or by a third party as a result of problems identified with a unit between annual inspections.

**Quality Control Inspections**

HUD requires that a sample of units be inspected by a supervisor or other qualified individual to ensure HQS is being enforced correctly and uniformly by all inspectors.

**Notices and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

**MMPHA Policy**

MMPHA schedules the inspection at least 364 days or 729 days before the last inspection. The family is notified by letter stating the date of the upcoming inspection. In some cases it is scheduled at the participant’s income verification appointment. The inspection may be re-scheduled for the next week on a case by case basis. Inspections are done on normal working days between 8am and 5 pm. In the case of a life threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

The Assisted Housing Representative can notify the landlord and/or tenant twenty four hours (24 hour) prior to the scheduled inspection upon approval from the landlord and/or the tenant. The Assisted Housing Representative will follow up with a letter to all parties involved. If the unit passes the initial inspection the first time, the PHA will schedule the next annual inspection in seven hundred and twenty nine days ((729 days) (two years).) If the unit fails inspection due to deficiencies on the part of the tenant/landlord, the unit will be inspected annually until the unit passes two consecutive years without the re-inspection.

The PHA will only do two HQS inspections per unit for initial, annual, and special inspections.

**MMPHA Policy**

**Attendance at inspections by owner and/or family**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection

When a family occupies the unit at the time of the inspection, an adult family member or a Representative who is over the age of 18 must be present for the inspection. If this is not possible, the inspection will be completed with the owner or owner’s representative.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner’s representative. The presence of a family representative is permitted, but not required. As a last resort if the unit is vacant MMPHA will inspect the unit without the owner if the owner makes prior arrangements.

**Initial HQS Inspection [24 CFR 982.401(a)]**

**Timing of Initial Inspections**

HUD requires the unit pass HQS inspection before the effective date of the lease and HAP contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and family of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [24 CFR 982.305(b) (2).

**MMPHA Policy**

**Timing of Initial Inspections**

MMPHA will schedule or have income eligibility done for the initial inspection within 15 business days of submission of the Request for Tenancy (RFTA) if the unit is available or as soon as the unit is available to determine whether the unit satisfies HQS, and notify the owner and family of the determination.

Look at the attachment at end of the admin plan for the landlord's guide to preparing for Section 8 HQS Inspection. MMPHA policy is based on these guidelines.

**Inspection Results and Re-inspections**

If any HQS violations are identified, the owner will be notified of the deficiencies and given 10 calendar days to notify MMPHA if they are not going to correct them. If the owner is unwilling to correct the deficiencies the family must submit a new Request for Tenancy Approval for a different unit. If requested by the owner, the timeframe for the correcting the deficiencies may be extended by the PHA for good cause. The PHA will re-inspect the unit within 1 week of the date the owner notifies the PHA the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of re-inspection, the PHA will notify the owner and the family that the unit has been rejected. The PHA may agree to conduct a second inspection, for good cause, at the request of the family and the owner.

Following the failed second inspection, the family must submit a new Request for Tenancy Approval for a different unit.

**Utilities**

At initial lease-up the owner is responsible for demonstrating all utilities are in working order, including those utilities the family will be responsible for paying. If the utility service is not available for testing at the time of the initial inspection, the PHA will not complete the inspection. A re-inspection will be done only when the owner or the owner’s representative advises the PHA that utilities are in service.

**Appliances**

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove or refrigerator to be placed in the unit after the unit has met all other HQS requirement. The required appliances must be in place before the HAP contact is executed by the PHA. A confirmatory inspection will be scheduled within one week of notification to the PHA that the appliances have been installed.

**Annual HQS Inspections [24 CFR 982.405(a)]**

**Scheduling the Inspection**

Each unit under HAP contract must have an annual inspection no more than 364 days after the most recent inspection.

If an adult family member cannot be present on the scheduled date, the family should make certain either a person over the age of 18 or the owner will be there to let the inspector in.

If the first scheduled inspection is missed, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance and abatement of payment to the owner. If good cause can be shown a second inspection will be scheduled.

**Special Inspections**

The PHA will conduct a special inspection if the owner, family or another source report HQS violations in the unit.

During a special inspection, the PHA ***generally*** will only inspect those deficiencies that reported. The inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs

**Quality Control Inspections [24 CFR 982.405(b),]**

HUD requires a PHA supervisor or other qualified person to conduct quality control inspectionsof a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is a consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

**Inspection Results and Re-inspections for Units under HAP Contracts Notification of Corrective Actions**

The owner and family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

When life threatening conditions are identified, the PHA will immediately notify both parties by telephone, cell phone, fax or email if available. The notice will specify who is responsible for the correcting the violation. The corrective actions must take place within 24 hours of the PHA notice.

When failures that are not life threatening is identified, the PHA will send the owner and the family a written notification of the inspection results within 3 days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for correction.

The notice of inspection results will inform the owner that, if life threatening conditions are not corrected within 24 hours and non-life threatening conditions are not corrected within the specified time frame (or any PHA-approved extension); the owner’s HAP will be abated in accordance with PHA policy. Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family’s assistance will be terminated in accordance with PHA policy.

**Extensions**

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

Extensions may be granted in cases where the PHA has determined the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner’s control.

The length of the extension will be determined on a case by case basis, but will not exceed 30 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

**Re-inspections**

The PHA will conduct re-inspections immediately following the end of the corrective period or any PHA approved extension.

The family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, the PHA will send a notice of abatement to the owner, or, in the case of family caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This will result in termination of the family’s assistance.

**MMPHA Policy**

**Types of Inspections**

Initial Inspections: The PHA conducts initial inspections in response to a request from the family (RFTA form) to approve a unit for participation in the HCV program. The unit must pass HQS inspection before the effective date of the HAP contract. If a re-inspection is necessary, there must be a physical re-inspection.

Annual Inspections: HUD requires the PHA to inspect each unit under lease at least annually or biannually to confirm the unit still meets HQS. The inspection may be conducted in conjunction with the family’s annual recertification but also may be conducted separately. If repair(s) need to be made, depending on the repair(s), we can accept work orders, photos, receipt, and/or written statement.

**Inspection Results and Re-inspections**

If any HQS violations are identified, the owner will be notified of the deficiencies and given 10 business days to notify MMPHA if they are not going to correct them. If the owner is unwilling to correct the deficiencies the family must submit a new Request for Tenancy Approval for a different unit. If requested by the owner, the timeframe for the correcting the deficiencies may be extended by the PHA for good cause. The PHA will schedule a re-inspection for the unit for the next available date after the owner notifies the PHA the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of re-inspection, the PHA will notify the owner and the family that the unit has been rejected. The PHA may agree to conduct a second re-inspection, only for good cause, at the request of the family and the owner. Following the failed second inspection, the family must submit a new Request for Tenancy Approval for a different unit.

**Appliances**

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove or refrigerator to be placed in the unit after the unit has met all other HQS requirement. The required appliances must be in place before the HAP contact is executed by the PHA. A confirmatory inspection will be scheduled for the next available date after notification to the PHA that the appliances have been installed.

**Inspection Results and Re-inspections for Units under HAP Contracts Notification of Corrective Actions**

When failures that are not life threatening is identified, the PHA will send the owner and the family a written notification of the inspection results within 3 days of receiving the inspection forms from the contracted inspector. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for correction.

**Re-inspections**

The PHA will schedule re-inspectionsfor the next available date after we receive the written request for a re-inspection.

**RENT REASONABLENESS**

**[24 CFR 982.507]**

No HAP contract can be approved until the PHA has determined the rent for a unit is reasonable. The purpose of rent reasonableness test is to ensure a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises.

**MMPHA Policy**

**Methodology in Administrative Plan**

MMPHA shall certify that, for each unit for which it approves a lease, the contract rent for such unit is:

* 1. Reasonable in relation to rents currently being charged for comparable units in the private, unassisted market: taking into account the location, quality, size, type of unit, age of unit, amenities, housing services, maintenance, handicapped accessible and utility allowance for tenant-paid utilities and not in excess of rent currently being charged by the owner for comparable unassisted units.
  2. MMPHA shall determine the rent to the owner is reasonable for each unit leased prior to the initial lease approval, before any requested increase of rent to the owner, if directed by HUD or if the FMR decreases by 5% or more.
  3. MMPHA shall maintain for three (3) years all certifications and relevant documentation for inspection by HUD.
  4. When a unit is located in an apartment complex, MMPHA will obtain information from the owners so it can be certified the rents being charged to the tenants in Section 8 units are the same as rents being charged to tenants who are in unassisted units. If the owner/manager completes section 12a on the Request for Tenancy Approval (HUD form 52517). MMPHA may use this information to determine and document rent reasonableness for comparable unassisted units in the complex.
  5. Documentation supporting the contract rent and the reasonableness as demonstrated by the rent comparability form will be contained in each tenant file. It is MMPHA’s intent to have two (2) rent comparability forms in each tenant file.

**System Based on United States Department of Housing and Urban Development Factors**

The attached Rent Comparability Form (see attachments) contains all of the HUD factors required to compare Section 8 assisted units to unassisted units. MMPHA will have a minimum of two (2) different comparability forms that have been completed within the last twelve (12) months in each tenant file for comparison. If it is not possible to obtain two different comparables it will be noted in the file as to why.

**MMPHA Policy**

**Unassisted Units in Market as Comparables**

MMPHA will have five (5) to ten (10) examples of unassisted units using the Rent Comparability Form for each county within the jurisdiction. If a comparable cannot be located in that county, MMPHA may use a comparable for a unit within the same market area. An example of this would be four (4) bedroom or larger homes, or for mobile homes. The examples of unassisted units will be divided into the following categories:

One bedroom examples for apartments, mobile homes and houses.

Two bedroom examples for apartments, mobile homes and houses.

Three bedroom examples for apartments, mobile homes and houses.

Four bedroom examples for apartments, mobile homes and houses.

**Documented at Appropriate Time**

MMPHA staff, after receiving a Request for Tenancy Approval (RFTA) form, will compare the proposed rent on the RTFA to the examples of the Rent Comparability Forms on file for the appropriate county/market area and appropriate type of unit.

The Assisted Housing Representative/Housing Inspector determines, upon inspection of the proposed new unit that the proposed new unit is comparable to two (2) similar units in the area. If a comparable unassisted unit cannot be located within the proposed rent range requested, the Assisted Housing Representative/Housing Inspector will contact the Owner/Manager of the proposed unit to negotiate a reasonable rent based on comparables.

4. When at least two (2) comparables are identified, the Assisted Housing Representative/Housing Inspector will notate which of the two (2) Rent Comparability Forms best compares with the unit and document the unassisted units are comparable and certify reasonableness on the unit by signing the Rent Reasonableness Certification form. If two comparables are not available, the Assisted Housing Representative must state why two are not attached. A copy of the Rent Comparability forms will be attached to the certification form.

5. MMPHA staff, after inspecting the unit for HQS at the annual recertification, will, if there has been a rent increase, compare the unit with Rent Comparability forms in the jurisdiction and certify the new rent is reasonable on the unit by signing the Rent reasonableness Certification form.

**GENERAL LEASING POLICIES**

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

The unit itself must qualify as an eligible unit [24 CFR 982.305 (a)]. The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR982.305 (a)]. The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305 9a)]

The rent to be charged by the owner for unit must be reasonable [24 CFR 982.305(a)]. The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982/306]. For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]

**Tenant Screening**

The PHA has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a) (1)]

The owner is responsible for screening and selection of the family to occupy the owner’s unit. At or before PHA approval of the tenancy, the PHA must inform the owner screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307 (a) (2)].

The PHA must provide the owner with the family’s current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family’s current and prior address. [24 CFR 982.307 (b) (2)]

The PHA’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307 (b) (3)].

**MMPHA Policy**

MMPHA will not screen applicants for family behavior or suitability for tenancy.

**Requesting Tenancy Approval [Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA approve the assisted tenancy in the selected unit.

**MMPHA Policy**

The owner and/or the family must submit the Request for Tenancy Approval (RFTA) packet

Completed Request for Tenancy Approval Form-HUD-52517

Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum for

HUD-52641-A

The landlord’s W-9-Request for Taxpayer Identification Number and Certification

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Form.

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. The family may not submit, and the PHA will not process, more than 1 RFTA at a time.

When the family submits the RFTA and proposed lease, the PHA will also review the terms of the RFTA for consistency with the terms of the proposed lease.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone. The PHA will use mail when the parties can’t be reached by phone.

**Lease and Tenancy Addendum**

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. “Legal capacity” means the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308 (a)]

**Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner’s certification that, if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be, word-for-word, in the owners’ standard lease for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

**MMPHA Policy:**

MMPHA does not provide a model or standard dwelling lease for owners to use the HCV program.

**Lease Information [24 CFR 982.308 (d)]**

The assisted dwelling lease must contain all of the required information as listed below.

The names of the owners and tenants:

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

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

The amount of the monthly rent to the owner.

A specification of what utilities and appliances are supplied by the owner, and what utilities and appliances are supplied by the family.

**Term of the Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

**MMPHA Policy**

**Term of the Assisted Tenancy**

MMPHA may approve an initial lease term of less than one (1) year. Lease terms may be approved if this will improve housing opportunities for the family.

During the initial year of the lease, the owner may not raise the rent to tenant [24 CFR 982.309]. Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated annual contributions contract. [24 CFR 982.309 (b)].

**Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practices, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52642].

**MMPHA Policy**

MMPHA will allow the owner to collect a security deposit up to two months of the contract rent.

**PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements. The PHA is permitted, but not required, to review the lease to determine if the lease complies with State and local law and it is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308 (c)]

**MMPHA Policy**

MMPHA reserves the right to reject any lease if any of its provisions conflict with state or local law. Examples of unlawful provisions may include the following:

Agreement to be sued—Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner, in a lawsuit brought in conjunction with the lease.

Treatment of personal property—Agreement by the tenant and the owner to take, hold, or sell personal property of the household members without notice to the tenant, and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by tenant concerning disposition of person property left in the contract unit after the tenant has moved out. The owner may dispose of this personal property in accordance with state and local law.

Excusing the owner from responsibility—Agreement by the tenant no to hold the owner or owner’s agent legally responsible for any action or the failure to act, whether it is intentional or negligent.

Wavier of notice—Agreement by the tenant that the owner may institute a lawsuit against the tenant without notice to the tenant.

Waiver of legal proceedings—Agreement by the tenant that the owner may evict the tenant or household member (1) without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or (2) before a court decision on the rights on the parties.

Wavier of jury trial—Agreement by the tenant to waive any right to a trial jury.

Wavier of the right to appeal court decision—Agreement by the tenant to waive any right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

Tenant chargeable with cost of legal action regardless of outcome—Agreement by the tenant to pay the owner’s attorney fees or other legal cost even if the tenant wins in a court proceeding by the owner against the tenant. However, the tenant may be obligated to pay cost if the tenant looses.

**Tenancy Approval [24 CFR 982.305]**

After receiving the family’s request for Tenancy Approval, with the proposed dwelling lease, the PHA must promptly notify the family and the owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure all required actions and determinations have been completed.

These actions include ensuring the unit is eligible; the unit has been inspected by the PHA and meets Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent charged by the owner for the unit is reasonable; that, where the family is initially leasing a unit the gross rent to be paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306}; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-base paint disclosure information [24 CFR 982.305 (b)].

**HAP Contract Execution [24 CFR 982.305]**

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements. The HAP contract format is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451 (a) (2)]. The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the PHA may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The owner will ensure that both the PHA and the assisted family received copies of the same dwelling lease.

The owner and the PHA will execute the HAP contract. The PHA will not execute the HAP contract until the owner has submitted IRS form W-9.

**MMPHA Policy**

In addition to the required submission of IRS form W-9, MMPHA requests landlords participate in direct deposit. If the landlord participates in direct deposit, the PHA will not execute the HAP contract until the direct deposit forms have been received.

**CHANGES IN LEASE OR RENT [24 CFR 982.308]**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes must remain in accordance with the requirements.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not continue unless the PHA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

Changes in lease requirements governing tenants or owner responsibilities for utilities or appliances

Changes in lease provisions governing the term of the lease

The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the altered terms which must be approved.

Where the owner is changing the amount of rent, the owner must notify the PHA and the tenant of any changes in the amount of rent to owner at least 60 days before any such changes go into effect [24 CFR 308(g) (4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease. No rent increase is permitted during the initial term of the lease [24 CFR 982.309 (a) (3)].

**MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY**

HUD regulations impose few restrictions on where families may live or move with HCV assistance. HUD sets forth regulations and PHA policies governing moves within or outside the PHA’s jurisdiction in two parts:

Moving with Continues Assistance: This covers the general rules that apply to all moves by a family assisted under the PHA’s HCV program, whether the family moves to another unit within the PHA’s jurisdiction or to a unit outside the PHA’s jurisdiction

Portability:

This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA’s jurisdiction. This part also covers the special responsibilities the PHA has under portability regulations and procedures.

**Allowable Moves**

HUD regulations list five conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set for in this section

The family has a right to terminate the lease on notice to the owner (for owner’s breach)

and has given a notice of termination to the owner in accordance with the lease

[24 CFR 982.314 (b) (3)]. If the family terminates the lease on notice to the owner, the

Family must give the PHA a copy of the notice at the same time [24 CFR 982.314 (d) (1)].

The Violence Against Women Reauthorization Act of 2005 provides that “a family may

Receive a voucher from a public housing agency and move to another jurisdiction under

The tenant-based assistance program if the family has complied with all other obligations of the Section 8 Program and has moved out the assisted dwelling unit in order to protect the health/safety of an individual, who is or has been a victim of domestic violence,

Dating violence, or stalking 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.” [Pub. L 109-162]

The lease for the family’s unit has been terminated by mutual agreement of the owner and the family and approved by the PHA [24 CFR 982.314(b) (1) (ii)].

The lease for the old unit has terminated by the owner or the PHA has terminated the HAP contract

The owner has given a notice to vacate or has begun eviction proceedings

MMPHA Policy

MMPHA will, if the family and the owner mutually agree, allow termination of the lease for the family’s unit for reasonable accommodation or for circumstances beyond the control of the family or the owner (including VOWA). The family must give the PHA a copy of the termination agreement.

The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court order judgment or other process allowing the owner to evict the family [24 CFR 982.314 (b) (2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551 (g)].

The PHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.314 (b) (1) (i)].

The PHA determines the family’s current unit does not meet HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family’s old unit in accordance with HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner[24 CFR 982.403 (a) and (c)].

**Restrictions on Moves**

A family’s right to move is generally contingent upon the family’s compliance with program requirements [24 CFR 982.1 (b) (2)] HUD specifies conditions under which a PHA may only deny a family permission to move if it has grounds to do so under the program regulations.

**Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move if it has grounds to do so under the program regulations, which follow;

The PHA has grounds to deny the move because of the family’s action or failure to act as described in 24 CFR 982.552 in 982.553.

The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982,353(c)).

The family is an applicant and is not income-eligible (see 24 CFR 982.353(d) (1) in the area in which they wish to lease a unit.

The PHA has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c) (2), and the requested move does not comply with those policies. The regulations at 24 CFR 982.314 (c)(2) provide the PHA may establish policies that prohibit any move by the family during the initial lease term, and policies that prohibit more than one move by the family during any one year period.

The PHA does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982,314(e) (1).

**Insufficient Funding**

The PHA may deny a family permission to move to a higher cost unit within the PHA’s jurisdiction or to a higher cost area in with [24 CFR 982.314 (e) (1)]. if the PHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

The PHA must provide written notification to the local HUD Office when they determine it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

A financial analysis demonstrating insufficient funds is projected to meet the current calendar year projections of expenses. The projection must not include vouchers that have been issued but are not yet under contract.

A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves to higher cost units is in place.

A copy of the PHA’s policy stating how the PHA will address families who have been denied moves.

For moves within the initial PHA’s jurisdiction, a “higher cost unit” is defined as a unit in which the PHA would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

For portability moves, a “higher cost area” is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or “more generous” subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that receives a 2-bedroom voucher from the initial PHA). Before denying the family’s request to move due to insufficient funding, the initial PHA must contact the receiving PHA and confirm whether the receiving PHA will administer or absorb the family’s voucher. The receiving PHA cannot reverse its commitment to absorb the voucher.

If the receiving PHA is willing to absorb the family, there are no grounds to deny portability moves under 24 CFR 982.314 (e) (1). The initial PHA may also take into consideration any reported changes in the family’s income or composition that may result in a decreased subsidy amount therefore not resulting in an increase cost to the initial PHA.

The PHA may not deny a requested move due to insufficient funds under 24 CFR 982.314. (e)(1) Simply because the family wishes to move to a higher cost unit within the PHA’s jurisdiction or to a higher cost area.

The PHA may not deny requests to move, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A “lower cost area” is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g., the receiving PHA issues a 2-bedroom voucher to a family that received a 3-bedroom voucher from the initial PHA)

**MMPHA Policy**

MMPHA may deny a family a move to a higher cost area based upon insufficient funding, once it has notified the local HUD office and demonstrated there are insufficient funds projected to meet the current calendar year expenses. Once sufficient funds are available the family will be notified and provided the opportunity to move prior to the issuance of any vouchers for families on the waiting list.

**Grounds for Denial or Termination of Assistance**

The PHA has grounds for denying or terminating the family’s assistance [23 CFR 982.314 (e) (2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believe he or she was imminently threatened by harm from further violence if they remain in the unit. [Pub.L. 109-162]

**MMPHA Policy**

In determining whether to deny permission to move, the PHA will consider the criteria under federal regulations at [24 CFR 982.552(c) (1). These include:

The family has violated any family obligations under the program.

Any member of the family has been evicted from federally assisted housing in the past five years.

A PHA has ever terminated assistance under the program for any member of the family.

Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(a) (1).

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Housing Act.

The family has not reimbursed any PHA for amounts paid to an owner under the contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family breaches an agreement with the PHA to pay amounts owed to a PHA or amounts paid to an owner by the PHA. (The PHA, at its discretion, may offer a family to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.)

A family participating in the family self-sufficiency (FFS) program fails to comply, without good cause, with the family’s FFS contract of participation.

The family has engaged in or threatened abusive or violent behavior toward PHA personnel.

A welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to- work voucher program.

The family has been engaged in criminal activity or alcohol abuse as described in [24 CFR 982.553].

The PHA will also consider the same extenuation circumstances as would be considered when determining whether to deny or terminate assistance under 24 CFR 982.552 (c) (2). These include:

The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination on other family members who were not involved in the action or failure.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

In determining whether to deny a move for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA will consider whether such household member is participating in or has successfully been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may require the applicant or tenant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

If the family includes a person with disabilities, the PHA’s decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR8.

The PHA’s admission and eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

**Restrictions on Elective Moves [24 CFR 982.314 (c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during

the family’s initial lease term. They also permit the PHA to prohibit more than one elective

move by a participant family during any 12-month period.

**Moving Process**

**Notification**

If a family wishes to move to a new unit, the family must first notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314 (d) (2)]. If the family wishes to move to a unit outside the PHA’s jurisdiction under portability, the notice to the PHA must specify the area the family wishes to move [23 CFR 982.314(d) (2), Notice PIH 2004-12]. The notices must be in writing [24 CFR 982.5].

**MMPHA Policy**

A family currently under program assistance must give the owner a 30 day written notice of intent to move from the unit. They must provide the PHA an exact copy of the notice given to the owner. MMPHA will prohibit more than one elective move by a participant family during any 12 month period.

**MMPHA Policy**

**Approval**

Upon receipt of a family’s written notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies. The PHA will notify the family in writing of its determination within 10 business days following receipt of the family’s notification.

**MMPHA Policy**

**Reexamination of Family Income and Composition**

For families approved to move to a new unit within the PHA’s jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in this plan. For families moving into, or families approved to move out of the PHA’s jurisdiction under portability, the PHA will follow the policies set forth in this section.

**MMPHA Policy**

**Voucher Issuance and Briefing**

For families approved to move to a new unit within the PHA’s jurisdiction, the PHA will issue a new voucher within 10 business days of the PHA’s approval to move. No briefing is required for these families. The PHA will follow policies set forth on voucher terms, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees in writing and the PHA approves. Otherwise, the family will lose its assistance.

For families moving into or families moving out of the PHA’s jurisdiction under portability, the PHA will follow policies set forth in this section.

**Housing Assistance Payments [24 CFR 982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month after the month the family moves out of the unit.

If a participant family moves from an assisted unit with continuing tenant-based assistance, the

term of the assisted lease for the new assisted unit may begin during the month the family moves

out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

**MMPHA Policy**

In general, overlap payments are discouraged through the use of adequate 30 day written notices and the unit approval process.

**Portability**

Within the limitations of the regulations and this plan, a participant family or an applicant familythat has been issued a voucher has the right to use tenant-base voucher assistance to lease a unit anywhere in the United States providing the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b). The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the initial PHA. The second is called the receiving PHA.

The receiving PHA has the option of administering the family’s voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family’s housing assistance payments and the fee for administering the family’s voucher. Under the second option, the receiving PHA pays for the family’s assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The PHA will follow the rules and policies when it is acting as the initial PHA for a family. It will follow the rules and policies when it is acting as the receiving PHA for a family.

**Initial PHA Role**

**Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355 (b)]

Applicant families that have been issued vouchers, as well as participant families, may qualify to lease a unit outside the PHA’s jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

**Applicant Families**

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA’s jurisdiction under portability. However, HUD allows the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding or grounds for denial and termination of assistance. In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

**MMPHA Policy**

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family MMPHA will follow the policies of this section.

Applicant families must live in the PHA’s jurisdiction at the time of the application and provide proof of residency before requesting portability.

Whether or not MMPHA has or is in the process of terminated existing leases due to insufficient funds

The PHA will consider exceptions to this policy for purpose of reasonable accommodation. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353 (c) (3)].

**Participant Families**

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.353 (b)] VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believes he or she was imminently threatened by harm from further violence if they remain in the unit.

**MMPHA Policy**

MMPHA will determine whether a participant family may move out of the PHA’s jurisdiction with continued assistance in accordance with the regulations and policies. The PHA will notify the family in accordance with the approval policy.

**Determining Income Eligibility**

**Applicant Families**

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d) (3)]. The family must specify the area to which the family wishes to move.

**Participant Families**

The income eligibility of a participant family is not re-determined by MMPHA if the family moves to another PHA jurisdiction.

Anew reexamination of family income and composition is required for an applicant family if they move into the MMPHA or remain in the MMPHA jurisdiction.

**Briefing**

The regulations and policies on briefings in this plan require the PHA to provide information on portability to all applicant families who qualify to lease a unit outside the PHA’s jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

**Voucher Issuance and Term**

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982l353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures.

**MMPHA Policy**

For participating families approved to move under portability, the PHA will issue a new voucher within 10 business days of the PHA’s written approval to move.

The initial term of the voucher will be 60 days.

**MMPHA Policy**

**Vouchers Extensions and Expiration**

MMPHA will approve no extensions to a voucher issued to an applicant or participant family porting out of the PHA’s jurisdiction unless extenuating circumstances can be demonstrated by both the receiving PHA and the tenant.

**Initial Contact with the Receiving PHA**

After approving a family’s request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355 (c) (2)]. This means the initial PHA must contact the receiving PHA directly on the family’s behalf [Notice PIH 2004-12]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355 (c) (2)].

**MMPHA Policy**

Because the portability process is time-sensitive, MMPHA will notify the receiving PHA by phone that they will be receiving a fax of the portability paperwork and that the originals will be mailed so they will expect the family.

**Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

Form HUD-52665, Family Portability Information, with Part 1 filled out [Notice PIH 2004-12]

A copy of the family’s voucher [Notice PIH 2004-12]

A copy of the family’s most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family income and information in a format similar to that of form HUD-50058 [24 CFR 982.355(c) (4), Notice PIH-2004-12].

Copies of the income verification backing up the form HUD-50058 [24 CFR 982.355(c) (4), Notice 2004-12] including EIV documentation.

**Initial Billing Deadline [Notice PIH 2011-3]**

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part 1 the

deadline by which it must receive the initial billing notice from the receiving PHA. This initial billing submission must be completed and mailed by the receiving PHA within 10 working days of the HAP contract execution but no later than 60 days following the expiration date of the family voucher issued by in the initial PHA. If the initial PHA informs the receiving PHA that it will not honor a late billing, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it 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 (such as where the receiving PHA does not have the funding to support the voucher and the family would be terminated if the initial PHA refused to accept the billing). The initial PHA may contact HUD to report the receiving PHA’s failure to submit the bill in accordance with these procedures. HUD may take action to address the receiving PHA’s failure to do so, which may include reducing the receiving PHA’s administrative fee. Additionally, HUD may subsequently transfer units and funding from the receiving PHA to the initial PHA when it is feasible, since the initial PHA was required to accept the late billing.

**Monthly Billing Payments [24 CFR 982.355(e), Notice 2004-12]**

If the receiving PHA is administering the family’s voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing

arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-

based program in a manner that ensures it has the financial ability to provide assistance for

families that move out of its jurisdiction under portability and are not absorbed by receiving

PHAs as well as for families that remains within its jurisdiction.

**Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an update form

HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated

50058 by the family’s annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

**Subsequent Family Moves Within the Receiving PHA’s Jurisdiction [24 CFR 314 (e) (1), Notice PIH 2005-1]**

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

**Outside the Receiving PHA’s Jurisdiction [Notice 2004-12]**

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA’s jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA 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.

**Denial or Termination of Assistance [24 CFR 982.355 (c) (9)]**

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time.

**Receiving PHA Role**

If a family has a right to lease a unit in the receiving PHA’s jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982l355(10)].

The receiving PHA’s procedures and preferences for selection among eligible applicants does not apply, and the receiving PHA’s waiting list is not used [24 CFR 982.355(10)]. However, the family’s unit or voucher size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family’s housing assistance payment is determined in the same manner as for other families in the receiving PHA’s voucher program [24 CFR 982.355(e) (2)].

**Initial Contact with Family**

When a family moves into the PHA’s jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA’s procedures for incoming portable

families [24 CFR 982.355 (c) (3)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not

process the family’s paperwork but instead refers the family back to the initial PHA [Notice PIH

2004-12].

When a portable family request assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family’s assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12].

If, for any reason, the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or

hearing [Notice PID2004-12].

**Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family’s search. [Notice PIH 2004-12].

**MMPHA Policy**

**Briefing**

MMPHA will require the family to attend a briefing. The family will be provided with a briefing packet in an individual briefing.

MMPHA will inform the family about the PHA’s payment standards and subsidy standards, procedures for requesting an approval of a unit, the unit inspection process, and the leasing process.

**Income Eligibility and Reexamination**

HUD allows the receiving PHA to conduct its own income reexamination of a portable family.

[24 CRF 982.355(c) (4)] However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PID-2004-12, 24 CFR 982.201(b) (4)]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA voucher program [24 CFR 982.355(c) (1)].

**MMPHA Policy**

For any family moving into its jurisdiction under portability, MMPHA will conduct a new reexamination of family’s income and composition. MMPHA will not delay the issuance of the family’s voucher for this reason. MMPHA will not delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and MMPHA cannot confirm the family is income eligible for admission to the program in the area where the unit is located.

MMPHA will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family’s current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary.

**Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b) (c)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA’s voucher [24 CFR 982.355(c) (6)].

**Timing of Voucher Issuance**

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family’s paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures [Notice PIH 2004-12].

**MMPHA Policy**

When family ports into its jurisdiction, MMPHA will issue the family a voucher based on the paperwork provided by the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA’s procedures. The PHA will update the family’s information when verification as been completed.

**Voucher Term**

The term of the receiving PHA’s voucher may not expire before the expiration date of the initial voucher [24 CFR 982.355 (c) (6)].

**MMPHA Policy**

The receiving PHA’s voucher will expire on the same date as the initial PHA’s voucher.

**Voucher Extensions [24 CFR 982.355(c)(6), Notice 2004-12]**

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA’s voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind that the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

**MMPHA Policy**

MMPHA will not extend the term of the voucher issued to an incoming portable family even if the PHA plans to absorb the family into its own program. The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities.

**Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA’s voucher [24 CFR 982.355(c) (8)]. The receiving PHA is required to use Part ii of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.3559e) (5), Notice PIH 2004-12].

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA’s jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA’s voucher is valid for the family’s search in the receiving PHA’s jurisdiction. [Notice 2004-12].

**Administering a Portable Family’s Voucher**

**Initial Billing Deadline**

If a portable family’s search for a unit is successful and the receiving PHA intends to administer the family’s voucher, the receiving PHA must submit its initial billing notice (Part II of for HUD-52665) (a) no later than 10 days following the date the receiving PHA executes a HAP contact on behalf of the family and (b) in time that the notice received will be received no later than 60 days following the expiration date of the family’s voucher issued by the initial PHA [Notice PIH 2004-12]. A copy of the family’s form HUD 50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax or e-mail.

**MMPHA Policy**

MMPHA will send its initial billing notice by fax, if necessary, to meet the billing deadline and will also send the notice by regular mail.

If the receiving PHA fails to sent the initial billing notice within 10 calendar days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice 2004-12].

**Ongoing Notification Responsibilities [Notice 2004-12, HUD 52665]**

**Annual Reexaminations**: The receiving PHA must send the initial PHA a copy of a portable family’s updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

**MMPHA Policy**

MMPHA will send a copy of the updated HUD-50058 by regular mail at the same timethe PHA and owner are notified of the reexamination results.

**Change in Billing Amount.** The receiving PHA is to notify the initial PHA, using form HUD-52665, of any changes in the billing amount for a family as a result of;

A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc)

An abatement or subsequent resumption of the HAP payments

Termination of the HAP contract

Payment of a damage/vacancy loss claim for the family

Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 days following the effective date of the change in billing.

**Late payments [Notice PIH 2004-12]**

If the initial PHA fails to make a monthly payment for a portable family by the fifth day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request, by memorandum to the director of the OPH with jurisdiction over the receiving PHA, that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments to the receiving PHA.

**Overpayments [Notice PIH 2004-12]**

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA the billing arrangement was terminated, the receiving PHA must take the following steps:

Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.

Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD’s discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2004-12.

**Denial or Termination of Assistance**

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c) (9), 24 CFR 982.355(c) (10)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 days following the effective date of the termination of the billing arrangement. [Notice PIH 2004-12]

**MMPHA Policy**

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days of the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision of the policies set forth in the sections on eligibility and termination of assistance and tenancy. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

**Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contact (ACC) and (b) absorbing the family will not result in over leasing [24 CFR 982.355(d)(1). Notice 2004-12].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advanced notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2004-12].

MMPHA Policy

If MMPHA decides to absorb a portable family upon the execution of a HAP contact on behalf of the family, MMPHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If MMPHA decides to absorb a family at a later time, it will provide the initial PHA with30 day’s advance notice.

Following the absorption of an incoming portable, the family is assisted with funds available under the consolidated ACC for the receiving PHA’s voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

**REEXAMINATIONS**

The PHA is required to reexamine each family’s income and composition at least annually, and to adjust the family’s level of assistance accordingly. Interim reexaminations are also needed in certain situations. Following are the requirements for annual and interim reexaminations as well as the recalculation of the family’s share of the rent and subsidy amount occurring as a result as said reexamination:

Annual Reexaminations: Discusses the process for conduction annual reexaminations.

Interim Reexaminations: Discusses the requirements for families to report changes in family income and composition between annual reexaminations.

Recalculating Family Share and Subsidy Amount: Discusses the recalculation of family share and subsidy amount based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuses, as described elsewhere in this plan, apply to both annual and interim reexaminations.

**ANNUAL REEXAMINATIONS**

The PHA must conduct a reexamination of the family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family’s income and rent must be recalculated

**MMPHA Policy**

**SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexamination more frequently

The PHA will begin the annual reexamination process 90 days in advance of its scheduled effective dates to coincide with the family’s anniversary date.

Anniversary date is defined as 12 months from the effective date of the family’s last annual reexamination or, during a family’s first year in the program, from the effective date of the family’s initial examination (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purpose.

**Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How this information will be collected is left to the discretion of the PHA.

**MMPHA Policy**

MMPHA will conduct re-examinations through a mail- in process.

Notification of annual reexamination will be sent by first class mail, Included in the notice is the recertification form and listing of all documentation that is to be returned for review, and the deadline for returning the information

If the head of household does not respond to the reexamination notification, a second notice will be mailed notifying the family that they must come into the office for a face to face interview along with a scheduled appointment time.

If the family fails to attend the scheduled interview without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination will be sent to the family’s address of record, and to any alternate address provided in the family’s file.

An advocate or interpreter may assist the family in the interview process. The family and the PHA must execute a certification attesting to the role and assistance of any third party.

**CONDUCTING ANNUAL REEXAMINATIONS**

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 [24 CFR 982.552(b)].

**MMPHA Policy**

Families will be asked to submit all required information as described in the reexamination notice. This is documentation related to the family’s income, expenses and family composition.

If the family does not mail in all the required documentation they will be sent a notice for an appointment to complete the paperwork.

If the family does not provide the required documents or information within the required time frame, the family will be sent a notice of termination.

In addition to the required information, the family is required to complete a re-certification form and sign documents allowing the agency to conduct criminal background checks.

The information provided by the family generally must be verified in accordance with policy. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously report by the family, certain types of information verified at admission typically do not need to be re-verified on an annual basis. These include;

Legal identity

Age

Social security numbers

A person’s disability status

Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to Housing Quality Standards (HQS), the PHA may issue the family a new voucher, and the family and the PHA must try to find a new acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

**DETERMINING ON GOING ELIGIBILITY OF CERTAIN STUDENTS**

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

If a student enrolled in an institution of higher education is under age 24, is not a veteran, is not married, and does not have a dependent child, the student’s eligibility must be reexamined along with the income eligibility of student’s parents on an annual basis. In these cases, both the student and the student’s parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student’s parents will not be considered in considered in determining the student’s ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

**MMPHA Policy**

During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restriction in 24 CFR 5.612 by reviewing the student’s individual income as well as the income of the student’s parents. If the student has been determined “independent” from his/her parents based on the policy, the parent’s income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student’s assistance will be terminated.

If the student continues to be income eligible on his/her own income and the income of his/her parents (if applicable), the PHA will process a reexamination in accordance with the policies in this section.

**EFFECIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.526].

**MMPHA Policy**

In general, an increase in the family share of the rent from an annual reexamination will take effect on the family’s anniversary date. The family will be notified at 30 days in advance.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no notice is required.

If the family causes a delay in processing the annual reexamination, increases in the family share of rent will be applied retroactively, to the scheduled effective date of the annual reexamination.

In general, a decrease in the family share of rent that results from an annual reexamination will take effect on the anniversary date.

If the family moves to a new unit, the decrease will take effect on the effective date of the new lease and contract.

If the family causes a delay in processing the annual reexamination, decreases in family’s share of rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the dated specified, and this delay prevents the PHA from completing the reexamination as scheduled.

**INTERIM REEXAMINATIONS [24 CFR 982.526]**

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances the PHA must process interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family’s income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family’s request.

This includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA and family initiated interim reexaminations.

**CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

**MMPHA Policy**

MMPHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

**New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court award custody does not

require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.552(h) (2)].

**MMPHA Policy**

The family must inform the PHA of the birth, adoption or court-awarded custody of a child within 10 business days.

**New Family and Household Member Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.56(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards, 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 rent by the family, the PHA must terminate the HAP contract in accordance with terms [24 CFR 982.403].

**MMPHA Policy**

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 21 consecutive days within a twelve month period, and would no longer qualify as a “guest”. Requests must be made in writing and approval by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA’s eligibility criteria.

The PHA will not approve the addition of a foster child or foster adult if it will cause violation of HQS space standards.

If the PHA determines an individual meets the PHA’s eligibility criteria, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain the family will be issued a moving voucher and will be required to move.

If the PHA determines an individual does not meet the PHA’s eligibility criteria, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reason for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

**Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551 (h) (**3)**]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child or foster adult ceases to reside in the unit.

**MMPHA Policy**

If a household member ceases to reside in the unit, the family must inform the PHA within 10 business days. This requirements also applies to a family member who has been temporarily absent at the point the family concludes the individual is permanently absent.

If a live-in aide, foster child or foster adult ceases to reside in the unit, the family must inform the PHA within 10 business days.

**CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe changes in income or expenses may have occurred, of because the family reports a change. When a family reports a change, the PHA may take a different action depending on whether the family reports the change voluntarily, or because it was required to do so.

**PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria define by the PHA. They are not scheduled because of changes reported by the family.

**MMPHA Policy**

The PHA will conduct interim reexaminations in each of the following instances:

If the family has reported zero income, the PHA will conduct an interim reexamination every three months as long as the family continues to report they have no income.

The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

**Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24CFR 982.516(c)]. In addition, HUD regulations require the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516 (b) 92)].

**Required Reporting**

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

**MMPHA Policy**

Families are required to report all changes in earned income, including new employment, within 10 business days of the date of the change.

**Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change

in circumstances since the last determination [24 CFR 982.516(b) (2)]. The PHA must process

the request if the family reports a change that will result in a reduced family income

If a family reports a decrease in income from the loss of welfare benefits due to fraud or

non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR 5.615].

**MMPHA Policy**

If a family reports a change that would result in an increase in the family share of rent, the PHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that would result in a decrease in the family share of rent, the PHA will conduct an interim reexamination.

Families may report changes in income or expenses at any time.

**MMPHA Policy**

**Processing the Interim Reexamination**

**Method of Reporting**

The family must notify the PHA of changes in writing. If the family provides oral notice, the PHA will also require the family to submit the changes in writing.

MMPHA will mail to the family the required documentation that must be completed and returned to the office within 10 business days.

This time frame may be extended for good cause with PHA approval.

**Effective Dates**

The PHA must establish the time frame in which any changes that result from an interim re-examination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is an increase or a decrease in the family share of the rent and whether the family reported any required information within the required time frames

**MMPHA Policy**

If the family share of the rent is to increase:

The increase generally will be effective on the first day of the month following 30 days’ notice to the family.

If a family fails to report a change within the required time frame, or fails to provide all required information within the required time frame, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with policy.

If the family share of the rent is to decrease:

The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted.

**RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and the owner of the changes [24 CFR 982.516(d)(2),]. While the basic policies that govern these calculations are provided in the income and subsidy section this part lays out policies that affect these calculations during a reexamination.

**CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and the HAP amounts correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA’s calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

**Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, and the area in which the unit is located When the PHA changes payment standards or the family’s situation changes, new payment standards are applied at the following times:

If the PHA’s payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased;

If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.

If the payment standard amount has decreased, the decreased payment standard will be applied at the second annual reexamination following the effective date of the decrease in the payment standard, unless at the second annual reexamination the payment standard was subsequently increased.

If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

**Subsidy Standards [24CFR 982.505(c) (4)]**

If there is a change in the family unit size that would apply to a family during the HAP contact term, either due to a change in family composition, or a change in the PHA’s subsidy standards, the new family unit size must be used to determine the payment standard amount for the family at the family’s first annual reexamination following the change in family unit size.

**Utility Allowances [24 CFR 982. 517(d)]**

The family share of the rent and the HAP calculations must reflect any changes in the family’s utility arrangement with the owner, or in the PHA’s utility allowance schedule.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 CFR 982.517(d) 92)].

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

**NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment.

[HUD-52641, HAP contract] The notice must include the following information:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new rent to owner

If the TTP increases, the family must be given an opportunity for an informal hearing regarding the PHA’s determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a) (1) (i).

**DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, correction will be made in accordance with policy.

**TERMINATION OF ASSISTANCE AND TENANCY**

HUD regulations specify the reasons for which a PHA can terminate a family’s assistance and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This section presents the policies that govern voluntary and involuntary terminations of assistance and termination of the tenancy by the owner.

Grounds for Termination of Assistance: Explains the various reasons a family’s assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family’s behavior.

Approach to Termination of Assistance: Specifies policies that govern when an involuntary termination takes place, the alternatives the PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA must take when terminating a family’s assistance.

Termination of Tenancy by the Owner: Presents the policies that govern the owner’s right to terminate an assisted tenant.

**TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance for certain offences and when the family no longer requires assistance. HUD permits the PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the PHA.

**FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

As a family’s income increases, the amount of PHA subsidy goes down. If the amount of the HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family’s assistance terminates automatically.

**MMPHA Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payments to rise above zero, the family must notify the PHA of the change of circumstances and request an interim reexamination before the expiration of the 180-day period.

**FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request the PHA terminate the family’s assistance at any time.

**MMPHA Policy**

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family’s assistance, the PHA will follow notice requirements.

**MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance in the following circumstances:

**Eviction [24 CFR 982.552(b) (2)**

The PHA must terminate assistance whenever a family is evicted from a unit under the HCV program for serious or repeated violation of the lease.

**MMPHA Policy**

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described.

Serious and repeated lease violations will include, but not to be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damages to the unit or premises and criminal activity. The criteria to be used are whether the reason for the eviction was through no fault of the tenant or guest.

**Failure to Provide Consent [24 CFR 982.552(b**) (3)]

Th**e** PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination.

**Failure to Document Citizenship [24 CFR 982,552(b**) (**4) and [24 CFR 5.514 (c)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member’s citizenship or immigration status; (2) a family submits evidence and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizen already in the household where the family’s assistance has been prorated.

**Failure to Provide Social Security Documentation [24 CFR 5.218(c)]**

The PHA must terminate assistance or tenancy or both if the participant does not meet the applicable Social Security Number disclosure, documentation, and verification requirements for participation

**Methamphetamine Manufacture or Production [24CFR 982.552(b) (1) (ii)]**

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b) (5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, and is not residing with his/her parents in an HCV assisted household, the PHA must the terminate the student’s assistance if, either the student’s income or the income of the student’s parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

**Mandatory Policies [24 CFR 982. 553(b) and 982.551(1)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents

Any household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Any household member has violated the family’s obligation not to engage in drug related criminal activity

Any household member has violated the family’s obligation not to engage in violent criminal activity.

**MMPHA Policy**

**Use of Illegal Drugs and Alcohol Abuse**

The PHA will terminate a family’s assistance if any household member is “currently engaged in” any illegal use of a drug, or has pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. “Currently engaged in” is defined as any use of illegal drugs during the previous six months.

The PHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance the PHA will consider alternatives and factors the PHA may on a case-by-case basis choose not to terminate assistance.

**Drug-Related and Violent Criminal Activity [24 CFR 5.100]**

Drug means a controlled substance as defined in section 102 of the Controlled Sub**s**tances Act (21 U.S.C. 802)

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has 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.

**MMPHA Policy**

The PHA will terminate a family’s assistance if any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives and factors, the PHA may, on a case-by-case basis choose not to terminate assistance. The MMPHA has adopted a crime matrix to guide the case by case decision making activity. The matrix is attached at the end of the administrative plan.

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)].**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance.

The PHA will terminate a family’s assistance if:

The family has failed to comply with any family obligations under the program.

Any family member has been evicted from federally-assisted housing in the last 5 years.

Any PHA has ever terminated assistance under the program for any member of the family.

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

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing program.

The family has not reimbursed any PHA for amounts the PHA paid to any owner under a HAP contract for rent, damages to the units, or other amounts owned by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the PHA or the landlord for past due rent and/or tenant caused damages.

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

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

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

In making its decision to terminate assistance, the PHA will consider alternatives and factors; the PHA may, on a case-by-case basis, choose not to terminate assistance.

**Family Absence for the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long a family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. An absence in this context means that no member of the family is residing in the unit.

**MMPHA Policy**

If the family is absent from the unit for more than 60 consecutive calendar days, the family’s assistance will be terminated. Notice of termination will be sent in accordance to policy. A hardship appeal may be presented in writing by the family (or his/her representative). The appeal may be approved by either the Director of Economic Development and/or the informal hearing panel.

**Insufficient Funding [24 CFR 982.454]**

The PHA may terminated HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA’s annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so after careful monitoring and exploration of other possible alternatives; including, but not limited to, consultation with tenancy advisory groups, other PHA’s, industry organizations and associations, and HUD field office staff.

**MMPHA Policy**

MMPHA will determine whether there is sufficient funding to pay for the currently assisted contracts and will determine if any other action can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants and after consultation with HUD, the PHA will terminate HAP contracts as a last resort. The termination process is as follows:

MMPHA will assess the demographic makeup of the participant families and the approximate number of terminations required to maintain sufficient funding.

First priority for remaining on the program will be those families whose head or co head are elderly or disabled.

Second priority for remaining on the program is households who have children under the age of 5.

A lottery system will be utilized to determine which remaining households will be terminated. Owners and tenants will be provided with a 30 day notice of the termination of the assistance. Once a family has been terminated under this process, their names will be placed at the top of the waitlist in the order in which their lottery number was pulled. The agency will not absorb any ports until those who have been terminated under this process have been reinstated on the program.

**APPROACH TO TERMINATION OF ASSISTANCE**

The PHA is required by regulation to terminate a family’s assistance if certain program rules are violated. For other types of offenses, the regulations give the PHA the discretion to either terminate the family’s assistance or to take another action. This section cites the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

**METHOD OF TERMINATION [24 CFR 982.552 (a) (3)**]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD

permits the PHA to terminate assistance by:

Terminating housing assistance payments under a current HAP contract,

Refusing to approve a request for tenancy or to enter into a new HAP contract, or

Refusing to process a request for or to provide assistance under portability procedures.

**ALTERNATIVES TO TERMINATION OF ASSISTANCE**

**Changes in Household Composition**

As a condition of continued assistance, the PHA may require any household member who participated in, or was responsible for, an offense to no longer resides in the unit [24 CFR 982,552(c)(2)(ii)].

**MMPHA Policy**

As a condition of continued assistance, the head of household must certify the culpable family member has vacated the unit and will not be permitted to stay as a guest in the assisted unit. The family must present evidence of the former family member’s current address upon PHA request.

**MMPHA Policy**

**Repayment of Family Debts**

If a family owes amounts to the PHA, as a condition of continues assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement within 30 days of receiving notice from the PHA of the amount owed. See policy on repayment agreements.

**Criteria for Deciding to Terminate Assistance Evidence**

For criminal activity, HUD permits the PHA to terminate assistance if a preponderance of the evidence indicates a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.552(c)].

**MMPHA Policy**

The PHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which is as a whole shows the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witness, but the greater weight of all evidence.

Consideration of Circumstances [24 CFR 982.552(c) (2) (ii)

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.

**MMPHA Policy**

The PHA will consider the following factors when making it decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents

The effect termination of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability in individual family members, including whether the culpable family member is a minor or a person with disabilities

The length of time since the violation occurred, the family’s recent history, and the likelihood of favorable conduct in the future.

In the case of drug or alcohol abuse, whether the culpable household member is participating in, or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. MMPHA will require the participant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family included a person with disabilities, the PHA’s decision to terminate the family’s assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**MMPHA Policy**

If a family indicates the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See section on reasonable accommodation.

**Terminating the Assistance of Domestic Violence, Dating Violence, or Stalking Victims, and Perpetrators [Pub L.109-162, Pub L.109-171]**

The Violence Against Women Reauthorization Act of 2005 (VAWA)provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.”

VAWA also gives PHAs the authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evidence, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.”

**MMPHA Policy**

**Victim Documentation**

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest or other person under the tenant’s control and a tenant or immediate family member of the tenant’s family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, MMPHA will require the individual to submit documentation affirming that claim. Documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking.

One of the following:

A police or court record documenting the actual or threatened abuse.

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification, HUD form 50066, Certification of Domestic Violence, Dating Violence or Stalking (attachment), and supporting documentation must be submitted to MMPHA within 14 business days after the individual claiming victim status receives a request for such certification.

In extreme circumstances when MMPHA can demonstrate an actual and imminent threat to other participants or employees of MMPHA/Central Missouri Community Action if the participant’s (including the victim’s) tenancy is not terminated, MMPHA will bypass the standard process and proceed with the immediate termination of the family’s assistance.

**Termination or Evicting a Perpetrator of Domestic Violence**

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA give the PHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, “in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority supersedes any local, state, or other federal law to the contrary. However, if MMPHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination or termination of assistance [Pub. L. 109-271].

**MMPHA Policy**

When the actions of a tenant or other family member results in a determination by MMPHA to terminate the family’s lease and another family member claims the actions involve criminal acts of physical violence against family members or others, MMPHA will request the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time, or any approved extension period, MMPHA will bifurcate the lease and evict or terminate the occupancy rights of the perpetrator. If the victim does not provide the certification and supporting documentation as required, MMPHA will proceed with termination of the family’s lease.

If MMPHA can demonstrate an actual and imminent threat to other tenants or those employed by MMPHA/Central Missouri Community Action if the tenant’s tenancy is not terminated, MMPHA will bypass the standard process and proceed with the immediate termination of the tenant and/or perpetrator.

**PHA Confidentiality Requirements**

All information provided to MMPHA regarding domestic violence, dating violence, or stalking, including the fact an individual is a victim of such violence or stalking, must be retained in confidence and may not be entered into any shared data base nor provided to any related entity, except to the extent the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

**TERMINATION NOTICE**

If a family’s assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

The reason for which assistance has been terminated

The effective date of the termination

The family’s right to an informal hearing.

If a criminal record is the basis for the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.5539d)].

**MMPHA Policy**

When termination is initiated by the PHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the PHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the PHA learns the family has vacated the unit.

When a family request to be terminated from the program they must do so in writing to MMPHA. MMPHA will then send a confirmation notice to the family and the owner within 10 business days of the family’s request, but no later than the termination effective date (as requested by the family).

**Notice of Termination Based on Citizenship Status [24 CFR 5.514(c) and (d)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within

the required timeframe concerning any family member’s citizenship or eligible immigration status (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the PHA determines a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and request an informal hearing.

**MMPHA Policy**

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of termination.

**How Termination Of Assistance Affects the HAP Contract and Lease.**

When the family’s assistance is terminated, the lease and the HAP contract terminate automatically. [Form HUD-52641].

The owner may offer the family a separate unassisted lease.

**TERMINATON OF TENANCY BY THE OWNER**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance will be terminated.

**GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-51641-A, Tenancy Addendum]**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

**Serious or Repeated Lease Violations**

The owner is permitted to terminate the family’s tenancy for serious or repeated violations of the terms and conditions of the lease. This includes failure to pay rent or other amounts due under the lease. However, the PHA’s failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

**Violation of Federal, State or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state or local law that imposes obligations in connection with the occupancy or use of the premises.

**Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any covered person, meaning any member of the household, a guest or other person under the tenant’s control, commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their premises by, other residents (including property management staff residing on the premises);

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of residence by, persons residing in the immediate vicinity of the premises;

Any violent criminal activity on or near the premises; or

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

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

Fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees

Violating a condition of probation or parole imposed under federal or state law.

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

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

**Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard or proof used for a criminal conviction.

**Other Good Cause**

During the initial lease term, the owner may not terminate for “other good cause” unless the owner is terminating tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises. After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

Failure by the family to accept the offer of a new lease or revision;

The owner’s desire to use the unit for personal or family use, or for the purpose other than as a residential rental unit; or

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

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

**EVICTION [24 CFR 982.310 (e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of the tenancy during the term of the leases. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before the commencement of the eviction action. The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice.

**MMPHA Policy**

If the eviction action is finalized in court, the owner must provide MMPHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 calendar days following the court-ordered eviction.

**DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

The seriousness of the offending action;

The effect on the community of the termination, or of the owner’s failure to terminate tenancy;

The demand for assisted housing by families who will adhere to lease responsibilities;

The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;

The effect of the owner’s action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in, or has successfully completed, a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner’s termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

**EFFECT OF TERMINATION OF TENANCY ON THE FAMILY’S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so the family can move with continued assistance.

**OWNERS**

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families. The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982,453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this is not meant to be an overview of all aspect of owner participation in the HCV program.

For detailed information about HCV program responsibilities and process, including PHA policies in key areas, owners will need to refer to several other chapters in this plan.

**OWNER RECRUITMENT AND RETENTION**

**Recruitment**

PHAs are required to ensure very low income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program. To accomplish this objective, PHA’s must identify and recruit new owner to participate in the program.

**MMPHA Policy**

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration.

MMPHA will recruit for the program through media announcements if/when deemed necessary.

MMPHA will hold briefings annually with current and future landlords/owners/agents for open discussion regarding program changes and updates, and landlord/owner/agents rights.

MMPHA will maintain a listing of landlords/owners/agents that are willing to lease or have properties available to lease under the Section 8 housing choice voucher program.

MMPHA distributes printed material about the program to property owners and managers.

MMPHA develops working relationships with owners/ managers and real estate brokers

MMPHA will monitor outreach strategies for effectiveness, and make adaptations accordingly.

**Retention**

In addition to recruiting owner to participate in the HCV program the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

**MMPHA Policy**

MMPHA will provide owners information that explains the program.

MMPHA will provide owners with a designated PHA contact person.

MMPHA will coordinate inspections and leasing activities between the PHA, the owner, and the family.

MMPHA will initiate telephone contact with the owner to explain the inspection process, and provide information about housing quality standards.

MMPHA will provide other written information about how the program operates, including answers to frequently asked questions.

**BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to aid families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners who are prequalified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family, or to help the HCV family find a unit [24 CFR 982.301 (b)(11)].

**MMPHA Policy**

Owners who wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the PHA. The PHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. MMPHA has no liability or responsibility to the owner or other person for the family’s behavior or suitability for tenancy.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family’s request for assistance in the specified unit, and which documents the owner’s willingness to lease to the family and to follow the program’s requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner’s proposed lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest.

The selected unit must be of a type that is eligible for the program [24 CFR 982l305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit.

The selected unit must meet HUD’s Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner’s dwelling unit at various stages of the HCV program participation, to ensure the unit continues to meet HQS requirements.

The PHA must determine the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises.

At initial lease-up of a unit, the PHA must determine the share of rent paid by the family does not exceed 40 percent of the family’s monthly adjusted income [24 CFR 982.305(a)].

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners must use their standard lease when renting to an assisted family. However, the HCV program requires the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be either added word-for-word to that lease or attached to the lease.

The PHA and the owner enter into a formal contractual relationship by executing the Housing

Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD.

**OWNER RESPONSIBILITIES [24 CFR 982.452]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

Performing all of the owner’s obligations under the Housing Assistance Payments (HAP) contract and the lease

Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit

Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance

Complying with equal opportunity requirements

Preparing and furnishing to the PHA information required under the HAP contract

Collecting from the family any security deposit, the tenant’s contribution to rent (that part of the rent to owner not covered by the housing assistance payment for the PHA), and any charges for unit damage by the family.

Enforcing tenant obligations under the dwelling lease

Paying for utilities and services (unless paid by the family under the lease)

Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CRFR 100.203]

Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

**OWNER QUALIFICATIONS**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner

behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

**Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed the owner has been debarred, suspended, or subject to a limited denial of participation under [24 CFR part 24]. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that

the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**Leasing to Relatives [24 CFR 982.306(d),]**

The PHA must not approve a RFTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR 982.161;]**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

Any present or former member or officer of the PHA (except a participating commissioner)

Any employee of the PHA, or any contractor, subcontractor, or agent of the PHA, who formulates policy or who influences decisions with respect to the programs

Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs

Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include:

Complete statement of the facts of the case;

Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;

Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted:

Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the wavier is denied;

If the case involves a hardship for a particular family, statement or the circumstances and discussion of possible alternatives;

If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including references to any responsibilities involving the HCV program;

If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;

If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans,

Where the PHA has requested a conflict of interest waiver, the PHA may execute the HAP contact until HUD has made a decision on the waiver request.

**Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA, at the PHA’s discretion, to refuse to approve a request for tenancy if the owner has committed any number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families already living in the owner’s properties unless the owner has violated the HAP contract for those units

**MMPHA Policy**

MMPHA will refuse to approve a request for tenancy if the PHA becomes aware any

of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

The owner has engaged in any drug-related criminal activity or any violent criminal activity;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section8 assistance or leased under any other federal housing program;

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8, or any other federally assisted housing program, for activity engaged in by the tenant, any member of the household, or a gue**s**t which (i)Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residence, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

The owner has not paid state or local real estates, fines or assessment. In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, and the health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

**Legal Ownership of Unit**

The following represents PHA legal ownership of a dwelling unit to be assisted under the HCV program.

**MMPHA Policy**

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership such as a deed, property tax information or insurance policy.

Landlords must provide the PHA notice of the sale or transfer of property along with contact information concerning the purchaser no later than 15 days after the transfer of property.

**NON-DISCRIMINATON [HAP Contract-Form HUD-5264**1]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions of responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and compliant investigations in connection with the HCV program and the HAP contract with the PHA.

**HAP CONTRACTS**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by the HCV assisted family. The contract spells out the owner’s responsibilities under the program, as well as the PHA**’s** obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP contract.

**HAP CONTRACTS CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP)

Contract, Form HUD-52641. The HAP contract contains three parts; Part A of the contract includes basis contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of the initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by the owner and tenant, signature of the PHA and owner in general, the PHA contract cannot be modified. However, PHA’s do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants.

In addition, PHA’s have the discretion to add language to Part A of the HAP contract that defines

when the housing assistance payment by the PHA is deemed received by the owner.

**MMPHA Policy**

MMPHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contact will be necessary.

Part B is the body of the contact. It describes in detail program requirements affecting the owner, and the owner roles and responsibilities, under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

Lease of Contract Unit

Maintenance, Utilities and Other Services

Term of HAP Contract

Provision and Payment of Utilities and Appliances

Rent to Owner: Reasonable Rent

PHA Payment to Owner

Prohibition of Discrimination

Owner’s Breach of HAP Contract

PHA and HUD Access to Premises and Owner’s Records

Exclusion of Third Party Rights

Conflict of Interest

Assignment of the HAP Contract

Written Notices

Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum

sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

**HAP CONTRACT PAYMENTS**

**General**

During the term the HAP contract, and subject to the provisions of the HAP contract, the PHA

will make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to policy and is subject to change during the term of the HAP contract. The PHA must notify the owner and family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family’**s** lease. The total of the rent paid by the tenant, plus the PHA HAP payment, should be equal to the rent specified in the lease (rent to owner).

The family’s share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b) (4)]. The owner may not charge the tenant extra amounts for items customarily included in the rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including due any other Section 8 HCV contract.

**Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract—Form HUD-52641]

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner’s knowledge, the family resides in the unit as the family’s only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner

does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**Late HAP Payments [24 CFR 982.451(a) (5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if (1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by

the tenants; (2) it is the owner’s normal business practice to charge late payment penalties for both assisted and unassisted families; and (3) the owner charges the assisted family for the late payment of the family’s share of rent.

The PHA is not required to pay a late payment penalty if HUD determines the payment is

late for reasons beyond the PHA’s control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract

**Termination of HAP Payments [24 CFR 982. 311(b)**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminated when the HAP contact terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

**MMPHA Policy**

The owner must inform MMPHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform MMPHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide MMPHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, MMPHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform MMPHA of the date the family actually moves from the unit or the family is physically evicted from the unit.

**BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contact:

If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS

If the owner has violated any obligation under any other corrupt or criminal act in connection with any federal housing program

If the owner has committed fraud, bribery or any other corrupt criminal act in connection with any federal housing program

For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan

If the owner has engaged in drug-related criminal activity

If the owner has committed any violent criminal activity

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline.

The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

**MMPHA Policy**

Before MMPHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contact has been breached.

If relevant, MMPHA will conduct an audit of the owner’s record pertaining to the tenancy or unit.

If it is determined the owner has breached the contract, MMPHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner’s record of compliance and the number and seriousness of any prior HAP contract violations.

**HAP CONTRACT TERM AND TERMINATIONS**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the lease, including any lease term extensions. The HAP contract and the housing assistance payments made under the HAP contract terminate if:

The owner or the family terminated the lease;

The lease expires;

The PHA terminated the HAP contract;

The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month in which the family moves out of the unit.

180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;

The family is absent from the unit for longer than the maximum period permitted by the PHA;

The Annual Contribution Contract (ACC) between the PHA and HUD expires

The PHA elects to terminate the HAP contract.

**MMPHA Policy**

MMPHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403]

The unit does not meet HQS [24 CFR 982.403]

The family breaks up [HUD Form 52641]

The owner breaches the HAP contract [24 CFR 982.453(b)]

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under the contact.

**MMPHA Policy**

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. The owner is not entitled to any housing assistance payment received after this period and must return to the PHA any housing assistance payment received after this period.

If the family moved from the assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This unit is not considered a duplicative subsidy.

**CHANGES IN OWNERSHIP/ ASSIGNMENT OF THE HAP CONTRACT [HUD-25641]**

The HAP contact cannot be assigned to a new owner without the prior written consent of the PHA. An owner under HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

**MMPHA Policy**

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HAP program according to policy.

The PHA must receive a signed, written request form the existing owner stating the name and

address of the new HAP payee and the effective date of the assignment in order to change the

HAP payee under an outstanding HAP contract. The new owner must provide a written certification to the PHA that includes:

A copy of the escrow statement or other document showing the transfer of title and recorded deed;

A copy of the owner’s IRS Form W-9, Request for Taxpayers Identification Number and Certification or social security number of the new owner;

The effective date of the HAP contract assignment;

A written agreement to comply with the terms of the HAP contract; and

Confirmation the new owner is not a prohibited relative.

If the new owner does not agree to assignment of the HAP contact, or fails to provide the necessary documents, the PHA will still terminated the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the lease in accordance with policy.

**PROGRAM INTEGRITY**

The PHA is committed to ensuring subsidy funds made available to the PHA are spent

in accordance with HUD requirements.

HUD and the PHA have policies designed to prevent, detect, investigate and resolve instances

of program abuse or fraud. It also describes the actions that will be taken place in the of

unintentional errors and omissions.

Preventing, Detecting and Investigating Errors and Program Abuse: The PHA policies related to preventing, detecting and investigating errors and program abuse.

Corrective Measures and Penalties: The Corrective measures the PHA must and may take when errors or program abuses are found.

**PREVENTING, DETECTING AND INVESTIGATING ERROR AND**

**PROGRAM ABUSE**

**PREVENTING ERRORS AND PROGRAM ABUSE**

**MMPHA Policy**

MMPHA anticipates the vast majority of families, owners, and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure MMPHA’s HCV program is administered effectively and accordingly to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure both errors and intentional program abuse is rare.

**MMPHA Policy**

MMPHA will discuss program compliance issues during the voucher briefing session.

MMPHA will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

MMPHA staff will be required to review and explain the content of all HUD-and PHA required forms prior to requesting the family members’ signatures.

MMPHA will provide each PHA employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

For this section, the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

**DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect error and program abuse.

**Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections for a sample of units to ensure HQS compliance [24 CFR, Part 985].

**MMPHA Policy**

In addition to the SEMAP quality control requirements, MMPHA will employ a variety

of methods to detect errors and program abuse.

MMPHA routinely will use available sources of up-front income verification to compare with family provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistence and incomplete information.

MMPHA will compare family-reported income and expenditures to detect possible unreported income.

**Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of error and potential cases of program abuse.

**MMPHA Policy**

MMPHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuse as well to assess the effectiveness of the PHA’s error detection and abuse prevention efforts.

**MMPHA Policy**

**Individual Reporting of Possible Errors and Program Abuse**

MMPHA will encourage staff, program participants, and the public to report possible program abuse.

**MMPHA Policy**

**INVESTIGATING ERRORS AND PRORAM ABUSE**

**When the PHA Will Investigate**

MMPHA will review all referrals, specific allegations, complaints and tips from any source including other agencies, companies and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

MMPHA will investigate inconsistent information related to the family that is identified through file reviews and verification process.

**Consent to Release of Information [24CFR 982.516]**

The PHA may investigate possible instance of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

MMPHA Policy

**Analysis and Findings**

MMPHA will base its evaluation on a preponderance of the evidence collected during investigation.

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

For each investigation, MMPHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to MMPHA, and (3) what corrective measures or penalties will be assessed.

**Consideration of Remedies**

All errors and instance of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depend upon the nature of the error or program abuse.

**MMPHA Policy**

In case of family-caused errors of program abuse, MMPHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances surrounding the effects of particular remedy of family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, MMPHA will take into consideration (1) the seriousness of the offence, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

**MMPHA Policy**

**Notice and Appeals**

MMPHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which MMPHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family’s rights to appeal the results through the informal review or hearing process.

**Corrective Measures and Penalties**

**Subsidy Under-OR Overpayments**

A subsidy under/overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

**Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share and any utility reimbursement prospectively,

**MMPHA Policy**

Increases in the family share will be implemented only after the family has received 30 days notice.

Any decreases in family share will become effective the first month following the discovery of the error.

**Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payment to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow:

**FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which

the family knowingly allows the PHA to use incorrect information provided by a third party.

**MMPHA Policy**

**Family Reimbursement to PHA**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. MMPHA may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, MMPHA will terminate the family’s assistance in accordance with policy.

**MMPHA Policy**

**PHA Reimbursement to Family**

MMPHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is cause by the family.

**Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

Make a false statement to the PHA [Title 18 U.S.C Section 1001]

Commit fraud, bribery, or any other corrupt or criminal action in connection with any federal housing program. [24 CFR 982.552(c) (iv)].

MMPHA Policy

Any of the following will be considered evidence of family program abuse;

Payment to the owner in excess of amount authorized by the PHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors or other PHA representatives

Offering payments or other incentives to the owner or third party as an inducement for the third party to make false or misleading statements to the PHA on the family’s behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstance

Omitted facts that were obviously known by a family member

Admission of program abuse by an adult family member

MMPHA may determine other actions to be program abuse based upon a preponderance of

evidence, as defined.

Penalties for Program Abuse

In the case of program abuse caused by a family, MMPHA may, at its discretion, impose

any of the following remedies.

MMPHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.

MMPHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.

MMPHA may deny or terminate the family’s assistance following the policies set forth.

MMPHA may refer the family for state or federal criminal prosecution as described.

**OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing and maintaining a unit are addressed in the appropriate sections of this plan. This section focuses on error and program abuse by owner.

If an incorrect subsidy determination is caused by an owner, the owner must repay the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments

over a period of time

**MMPHA Policy**

In cases where the owner has received excess subsidy, MMPHA will require the owner to repay the amount in accordance with policy.

**Prohibited Owner Actions**

An owner participating in the HCV program must not:

Make any false statement to the PHA [Title 18 U.S.C. Section 1001.

Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a) (3)]

**MMPHA Policy**

Any of the following will be considered evidence of owner program abuse;

Charging the family rent above or below the amount specified by the PHA

Charging a security deposit other than that specified in the family’s lease

Charging the family for services that are provided to an unassisted tenant at no extra charge

Knowingly accept housing assistance payment for any month(s) after the tenant has vacated the unit

Knowingly accept incorrect or excessive housing assistance payments

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA

Residing in the unit with an assisted family

**Remedies and Penalties**

When the PHA determines the owner has committed a program abuse, the PHA may take any of the following actions:

Require the owner to repay excess housing assistance payments, as discussed in this section and in accordance with policy.

Terminate the HAP contract.

Bar the owner from future participation in any PHA programs.

Refer the case to the state or federal officials for criminal prosecution.

**PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that is considered errors in or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

**Repayment to the PHA**

Neither a family nor an owner is required to repay any overpayment of subsidy if the error or program abuse is caused by PHA staff

**PHA Reimbursement to Family or Owner**

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or owner program abuse. Funds for this reimbursement must come from the PHA’s administrative fee reserve

**MMPHA Policy**

**Prohibited Activities**

Any of the following will be considered evidence of program abuse by MMPHA staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or material to MMPHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing HCV funds.

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

**MMPHA Policy**

**CRIMINAL PROSECUTION**

When MMPHA determines program abuse by an owner, family or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, MMPHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

**FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses the PHA recovers from a family or

owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amount due from tenants that is due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

50 percent of the amount it actually collects from a judgment, litigations (including settlement of a lawsuit) or ad administrative repayment plan agreement, or

Reasonable and necessary cost the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555. If HUD incurs cost on behalf of the PHA related to the collection, these cost must be deducted from the amount retained by the PHA.

PROGRAM ADMINISTRATION

This section discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

**Administrative Fee Reserve:** This part describes the PHA’s policies with regard to oversight of expenditures from its administrative fee reserve.

**Setting Program Standards and Schedules:** This part describes what payment standards are and how they are updated, as well as how utility allowances are established and revised.

**Informal Reviews and Hearings:** This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

**Owner or Family Debts to the PHA:** This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

**Section 8 Management Assessment Program (SEMAP):** This part describes what SEMAP scores represent, how they are established, and how those scores affect a PHA.

**Record-Keeping**: All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

**Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level**: This part describes the PHA’s responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

**Determination of Insufficient Funding:** This part describes the PHA’s policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

**ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The PHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law.

If the PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes. HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

**MMPHA Policy**

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements.

SETTING PROGRAM STANDARDS AND SCHEDULES

Although many of the program’s requirements are established centrally by HUD, the HCV program’s regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

* *Payment Standards*, dictate the maximum subsidy a family can receive and
* *Utility Allowances*, which specify how a family’s payment should be adjusted to account for tenant paid utilities

**MMPHA Policy**

Copies of the payment standard and utility allowance schedules are available for review in the PHA’s office during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

MMPHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

**PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA’s jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

**MMPHA Policy**

The payment standards for vouchers administered by MMPHA shall fall within the HUD basic range between 90 and 110 percent of the published FMR for each unit size. This is to enable MMPHA to operate within the monies allotted and not be forced to drop families from participation.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA’s jurisdiction are unacceptably high [24 CFR 982.503(g)].

**MMPHA Policy**

MMPHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range”, MMPHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability**: MMPHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. MMPHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, MMPHA will consider increasing the payment standard. In evaluating rent burdens, MMPHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected**: MMPHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner**: MMPHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size. MMPHA will not allow any rent increases should it be necessary to prevent termination of tenants due to lack of sufficient funding,

**Unit Availability:** MMPHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate**: MMPHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

**MMPHA Policy**

Changes to payment standard amounts will be effective on October 1st of every year based on the proposed FMRs If the PHA has already processed reexaminations that will be effective on or after October 1st, and the effective date of the payment standards is October 1st, MMPHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by MMPHA at the time the reexamination was originally processed.

**Exception Payment Standards [24 CFR 982.503(c)]**

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD’s sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

**Unit-by-Unit Exceptions [24 CFR 982.503(c) (2) (ii)]**

Unit-by-unit exceptions to the PHA’s payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. This type of exception does not affect the PHA’s payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

PIH Notice 2013-03 allows for a PHA to establish a payment standard of not more than 120% of the FMR without HUD approval as a reasonable accommodation. This temporary allowance will be effective until March 31, 2014 unless it is extended.

**MMPHA Policy**

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

There is a shortage of affordable units that would be appropriate for the family

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

If funding is available, MMPHA will use a payment standard of 120% of the published FMR for reasonable accommodation for a family that includes a person with disabilities should a rent reasonableness analysis and documentation that the unit has the feature(s) required to meet the needs of the person with disabilities warrant the increase in the standard as allowed under PIH Notice 2013-03 until its expiration.

**"Success Rate" Payment Standard Amounts** **[24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a “success rate payment standard” that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

* Fewer than 75 percent of families who were issued vouchers became participants;
* The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
* The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA’s jurisdiction within the FMR area.

**Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD’s sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

**UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule. In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type.

**Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

**MMPHA Policy**

MMPHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before MMPHA will apply this allowance to a family’s rent and subsidy calculations.

**Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA’s schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

**Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

INFORMAL REVIEWS AND HEARINGS

When the PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing. PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d) (12) and (13)].

**INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

**Decisions Subject to Informal Review**

The PHA must give an applicant the opportunity for an *informal review* of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a) (2)]:

* Denying listing on the PHA waiting list
* Denying or withdrawing a voucher
* Refusing to enter into a HAP contract or approve a lease
* Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

* Discretionary administrative determinations by the PHA
* General policy issues or class grievances
* A determination of the family unit size under the PHA subsidy standards
* A PHA determination not to grant approval of the tenancy
* A PHA determination that the unit is not in compliance with the HQS
* A PHA determination that the unit is not in accordance with the HQS due to family size or composition

**MMPHA Policy**

MMPHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

**Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

**MMPHA Policy**

**Scheduling an Informal Review**

A request for an informal review must be made in writing and delivered to the Economic Development Director and/or the President of the Board of MMPHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA’s denial of assistance.

MMPHA must schedule and send written notice of the informal review within 10 business days of the family’s request.

**Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person(s) designated by the Economic Development Director or the President of the Board of MMPHA.

The applicant must be provided an opportunity to present written or oral objections to the decision of MMPHA.

The person conducting the review will make a recommendation to MMPHA, but MMPHA is responsible for making the final decision as to whether assistance should be granted or denied.

**Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA’s final decision, including a brief statement of the

reasons for the final decision.

**MMPHA Policy**

In rendering a decision, MMPHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. MMPHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, MMPHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, MMPHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

MMPHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and PHA policies. The PHA is not permitted to terminate a family’s assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

* Refusing to enter into a HAP contract or approve a lease
* Terminating housing assistance payments under an outstanding HAP contract
* Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

* A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
* A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
* A determination of the family unit size under the PHA’s subsidy standards
* A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA’s subsidy standards, or the PHA determination to deny the family’s request for exception from the standards
* A determination to terminate assistance for a participant family because of the family’s actions or failure to act
* A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
* A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account [24 CFR 984.303(i)]

**MMPHA Policy**

MMPHA will offer participants the opportunity for an informal hearing when required by regulations

**Informal Hearing Procedures**

***Notice to the Family* [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time it informs the family of the decision.

For decisions related to the family’s annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the PHA’s subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

**MMPHA Policy**

In cases where MMPHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of MMPHA.

A brief statement of the reasons for the decision including the regulatory reference.

The date the proposed action will take place.

A statement of the family’s right to an explanation of the basis for MMPHA’s decision.

A statement that if the family does not agree with the decision, the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of the MMPHA’s hearing procedures.

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

**MMPHA Policy**

A request for an informal hearing letter must be completed in writing and delivered to the PHA office in person or by first class mail, by the close of the business day no later than 10 business days from the date of MMPHA’s decision or notice to terminate assistance.

MMPHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family’s request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, MMPHA may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the MMPHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. MMPHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

***Pre-Hearing Right to Discovery* [24 CFR 982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide the PHA must be given the opportunity to examine, at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA’s expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing. For the purpose of informal hearings, *documents* include records and regulations.

**MMPHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of $.10 per page. The family must request discovery of PHA documents no later than 12:00 noon on the business day prior to the scheduled hearing date

MMPHA must be given an opportunity to examine at MMPHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, MMPHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 noon on the business day prior to the scheduled hearing date.

***Participant’s Right to Bring Counsel* [24 CFR 982.555(e) (3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer* [24 CFR 982.555(e) (4)]**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

**MMPHA Policy**

MMPHA has designated the following to serve as hearing officers:

The President of the Board of MMPHA or his/her designee

**MMPHA Policy**

***Attendance at the Informal Hearing***

Hearings will be attended by a 3 person panel designated by the Rental Assistance Program Manager, or Economic Development Director, or Executive Director. The panel shall include at least one person who is not employed by MMPHA or CMCA. The following applicable persons are required at the hearing:

MMPHA representative(s) and any witnesses for MMPHA

The participant and any witnesses for the participant

The participant’s counsel or other representative

Any other person approved by MMPHA as a reasonable accommodation for a person with a disability

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures [24 CFR 982.555(4) (ii)].

**MMPHA Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

***Evidence* [24 CFR 982.555(e) (5)]**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

**MMPHA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: the testimony of witnesses

**Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence**: A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer’s decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence. Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

***Hearing Officer’s Decision* [24 CFR 982.555(e) (6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

**MMPHA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family**: The hearing officer will determine if the reasons for the PHA’s decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if MMPHA and the family were given the opportunity to examine any relevant documents in accordance with MMPHA policy.

**PHA Evidence to Support the PHA Decision**: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA’s conclusion.

**Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and MMPHA policies. If the grounds for termination are not specified in the regulations or in compliance with MMPHA policies, then the decision of MMPHA will be overturned.

The hearing officer will issue a written decision to the family and MMPHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

**Background**: A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA’s decision.

**Order:** The hearing report will include a statement of whether the PHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer’s determination. If the original decision resulted in the termination of assistance, the hearing officer will instruct the PHA to restore the participant’s program status.

MMPHA Policy

***Procedures for Rehearing or Further Hearing***

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of MMPHA will take effect and another hearing will not be granted.

In addition, within 10 business days after the date the hearing officer’s report is mailed to MMPHA and the participant, MMPHA or the participant may request a rehearing or a further hearing. Such request must be made in writing and postmarked or hand-delivered to the hearing officer and to the other party within the 10 business day period. The request must demonstrate cause, supported by specific references to the hearing officer’s report, why the request should be granted.

A rehearing or a further hearing may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing.

It shall be within the sole discretion of MMPHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to written submissions by the parties, in the manner specified by the hearing officer.

***PHA Notice of Final Decision* [24 CFR 982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws. If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

**MMPHA Policy**

MMPHA will mail a “Notice of Final Decision” including the hearing officer’s report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid. The participant will be mailed the original “Notice of Final Decision”. A copy of the “Notice of Final Decision” will be maintained in MMPHA’s file.

**HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

* That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
* The family may be eligible for proration of assistance.
* In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
* That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
* That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
* For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

**USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

**MMPHA Policy**

MMPHA will notify the family in writing of the results of the USCIS secondary verification within 10 calendar days of receiving the results.

The family must provide MMPHA with a copy of the written request for appeal and proof of mailing within 10 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to MMPHA, of its decision. When the USCIS notifies MMPHA of the decision, MMPHA must notify the family of its right to request an informal hearing.

**MMPHA Policy**

MMPHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family’s immigration status.

**Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision. The informal hearing procedures for applicant families are described below.

**Informal Hearing Officer**

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

**Evidence**

The family must be provided the opportunity to examine and copy, at the family’s expense and at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family’s eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

**MMPHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of $.10 per page. The family must request discovery of PHA documents no later than 12:00 noon on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

**Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family’s expense, and to have such person make statements on the family’s behalf. The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

**Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required, to provide a transcript of the hearing.

**MMPHA Policy**

MMPHA will not provide a transcript of an audio taped hearing.

**Hearing Decision**

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

**Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 calendar days of receipt of the PHA notice of termination, or within 30 calendar days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

**Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

* The application for assistance
* The form completed by the family for income reexamination
* Photocopies of any original documents, including original USCIS documents
* The signed verification consent form
* The USCIS verification results
* The request for a USCIS appeal
* The final USCIS determination
* The request for an informal hearing
* The final informal hearing decision

OWNER OR FAMILY DEBTS TO THE PHA

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA’s policies for recovery of monies that have been overpaid on behalf of families, or to owners.

**MMPHA Policy**

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to MMPHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to MMPHA, MMPHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State income tax set-off program

**MMPHA Policy**

**REPAYMENT POLICY**

**Owner Debts to the PHA**

Any amount due to the PHA by an owner must be repaid by the owner within 30 calendar days of MMPHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, MMPHA will reduce the future HAP payments by the amount owed until the debt is paid in full. If the owner is not entitled to future HAP payments MMPHA will offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, MMPHA will ban the owner from future participation in the program and pursue other modes of collection.

**MMPHA Policy**

**Family Debts to the PHA**

Any amount due to MMPHA by an HCV participant must be repaid by the family.

If the family is unable to repay the debt within 30 calendar days, MMPHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, MMPHA will terminate the assistance upon notification to the family and pursue other modes of collection.

**Repayment Agreement [24 CFR 792.103]**

The term r*epayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

**MMPHA Policy**

**Repayment Agreement Guidelines**

***Down Payment Requirement***

Prior to the execution of a repayment agreement, a family must pay 20 percent of the balance owed to MMPHA. This may be reduced to 10% if causes an economic hardship on the family. This is determined on a case by case basis.

**MMPHA Policy**

***Payment Thresholds***

All amounts must be repaid in full prior to 30 days before the next annual reexamination. Extenuating circumstances or large repayment amounts may be extended with the approval of the President of the Board of MMPHA.

**MMPHA Policy**

***Execution of the Agreement***

The head of household and spouse/co head (if applicable) must sign the repayment agreement.

**MMPHA Policy**

***Due Dates***

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

**MMPHA Policy**

***Non-Payment***

If a current MMPHA participating family misses 2 consecutive payments, a delinquency notice will be sent. The participant will be given 10 business days to pay the remaining balance in full to remain on the program. If payment is not received it will be considered a breach of the agreement and the PHA will terminate assistance upon written notification to the family. The participating family will be terminated and not eligible to reapply for assistance for 5 years and until the balance has been paid in full.

**MMPHA Policy**

***No Offer of Repayment Agreement***

MMPHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

MANAGEMENT ASSESSMENT (SEMAP)

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

* High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
* PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
* PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
* HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

**SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 coordinator.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.” A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

**HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample hat provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

**SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]**

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

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| **SEMAP Indicators** |
| **Indicator 1: Selection from the waiting list**  **Maximum Score: 15**   * This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. * Points are based on the percent of families that are selected from the waiting list in accordance with the PHA’s written policies, according to the PHA’s quality control sample. |
| **Indicator 2: Rent reasonableness**  **Maximum Score: 20**   * This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units * Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA’s quality control sample. |
| **Indicator 3: Determination of adjusted income**  **Maximum Score: 20**   * This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. * Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample. |
| **Indicator 4: Utility allowance schedule**  **Maximum Score: 5**   * This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. * Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA’s certification. |

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| **Indicator 5: HQS quality control inspections**  **Maximum Score: 5**  This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.  Points are based on whether the required quality control reinspections were completed, according to the PHA’s certification. |
| **Indicator 6: HQS enforcement**  **Maximum Score: 10**   * This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension. * Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA’s certification. |
| **Indicator 7: Expanding housing opportunities**  **Maximum Points: 5**   * Only applies to PHAs with jurisdiction in metropolitan FMR areas. * This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA’s jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration. * Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA’s certification. |
| **Indicator 8: FMR limit and payment standards**  **Maximum Points: 5 points**   * This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA’s jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR. * Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA’s certification. |
| **Indicator 9: Annual reexaminations**  **Maximum Points: 10**   * This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months. * Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC. |
| **Indicator 10: Correct tenant rent calculations**  **Maximum Points: 5**   * This indicator shows whether the PHA correctly calculates the family’s share of the rent to owner. * Points are based on the percent of correct calculations of family share of the rent, according to data from PIC. |
| **Indicator 11: Pre-contract HQS inspections**  **Maximum Points: 5**   * This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract. * Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC. |
| **Indicator 12: Annual HQS inspections**  **Maximum Points: 10**   * This indicator shows whether the PHA inspects each unit under contract at least annually. * Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC. |
| **Indicator 13: Lease-up**  **Maximum Points: 20 points**   * This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year. * Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA’s last year-end operating statement that is recorded in HUD’s accounting system. |
| **Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**  **Maximum Points: 10**   * Only applies to PHAs with mandatory FSS programs. * This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances. * Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC. |
| **Success Rate of Voucher Holders**  **Maximum Points: 5**   * Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn’t effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts. * This indicator shows whether voucher holders were successful in leasing units with voucher assistance. * Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program. |
| **De-concentration Bonus Indicator**  **Maximum Points: 5**   * Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile. * Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data. * Points are based on whether the data that is submitted meets the requirements for bonus points. |

RECORD KEEPING

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual’s privacy rights.

**RECORD RETENTION [24 CFR 982.158]**

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

* A copy of the executed lease;
* The HAP contract; and
* The application from the family.

In addition, the PHA must keep the following records for at least three years:

* Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
* An application from each ineligible family and notice that the applicant is not eligible;
* HUD-required reports;
* Unit inspection reports;
* Lead-based paint records as required by 24 CFR 35, Subpart B.
* Accounts and other records supporting PHA budget and financial statements for the program;
* Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
* Other records specified by HUD.

If an informal hearing to establish a family’s citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

**RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

**MMPHA Policy**

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

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

**Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law. Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the Information collected.

**Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD’s Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

**MMPHA Policy**

The PHA has adopted and implemented the EIV security procedures required by HUD.

**Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)]. The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

**Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person’s disability. The PHA may not inquire about a person’s diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

**REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Housing Quality Standards section. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

**REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

**MMPHA Policy**

MMPHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

**DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) within its area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), it must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

**MMPHA Policy**

The Public Health Departments will not release names or addresses of environmental intervention blood levels citing HIPPA regulations; therefore MMPHA is unable to attempt to obtain this information on a quarterly basis.

MMPHA will provide an updated list of the addresses of units receiving assistance under the HCV program to the local public health department(s) on a quarterly basis unless the health department does not require the list. The reports will be provided for the periods ending March 30th, June 30th, September 30th, and December 31st.

**DETERMINATION OF INSUFFICIENT FUNDING**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the PHA’s ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

**MMPHA Policy**

**METHODOLOGY**

MMPHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the MMPHA’s annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, MMPHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month’s average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the PHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.

MMPHA will make application to HUD for additional housing assistance vouchers as the need arise and if vouchers are made available.

**NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)**

**NOTIFICATION TO PARTICIPANTS [Pub L. 109-162]**

VAWA requires PHAs to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

**MMPHA Policy**

MMPHA will provide all participants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the participant of PHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MMPHA will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

**MMPHA Policy**

**NOTIFICATION TO APPLICANTS**

MMPHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of MMPHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

MMPHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

**NOTIFICATION TO OWNERS AND MANAGERS [Pub L. 109-162]**

VAWA requires PHAs to notify owners and managers of their rights and responsibilities under this law.

**MMPHA Policy**

MMPHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The PHA may utilize any or all of the following means to notify owners of their VAWA responsibilities:

* As appropriate in day to day interactions with owners and managers.
* Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.
* Signs in the PHA lobby and/or mass mailings which include model VAWA certification forms.

1. [↑](#footnote-ref-1)