

Chapter 1: OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

MRHA receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. MRHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. MRHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. MRHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about MRHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of MRHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: MRHA

1-I.A. OVERVIEW

This part explains the origin of MRHA's creation and authorization, the general structure of the organization, and the relationship between MRHA Board and staff.

The Housing Choice Voucher (HCV) Program, formerly known as the Section 8 Program, was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the HCV Assistance Program, is described in and implemented throughout this Administrative Plan. The HCV assistance programs are federally funded and administered for the City of Martinsville and The County of Henry, Virginia by the Martinsville Redevelopment and Housing Authority (MRHA) through its HCV housing department.

MRHA is overseen by a seven member Board of Commissioners who regularly meets on the third Wednesday of each month. The Board of Commissioners, in conjunction with the Executive Director and MRHA management staff, provides the initiatives and support to achieve MRHA's mission statement. The Executive Director is responsible for MRHA's daily operations and compliance with policies and procedures.

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1-I.B. ORGANIZATION AND STRUCTURE OF MRHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by MRHA for the jurisdiction of the City of Martinsville and County of Henry, Virginia.

The officials of a PHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which MRHA conducts business, ensuring that policies are followed by PHA staff and ensuring that MRHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

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

The principal staff member of MRHA is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of MRHA's staff in order to manage the day-to-day operations of MRHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

1-I.C. MRHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

MRHA Mission Statement

The Martinsville Redevelopment and Housing Authority is committed to achieving excellence in providing affordable quality housing, promoting adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

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1-I.D. MRHA'S PROGRAM

MRHA's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the following special programs:

1-I.E. MRHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, MRHA is committed to providing excellent service to HCV program participants – families and owners – in the community. MRHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing MRHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of MRHA's support systems and commitment to our employees and their development.

MRHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

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PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE 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 1974 and a brief history of the program will assist the audience in understanding the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act 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, where 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 in 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 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 were 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 not 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.

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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 and required that the two programs be merged into a single tenant-based assistance program, 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 to 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.

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1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in MRHA's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, MRHA issues the families a housing voucher. When the family finds a suitable housing unit and funding is available, MRHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. MRHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program and funding is available.

1-II.C. THE HCV PARTNERSHIPS

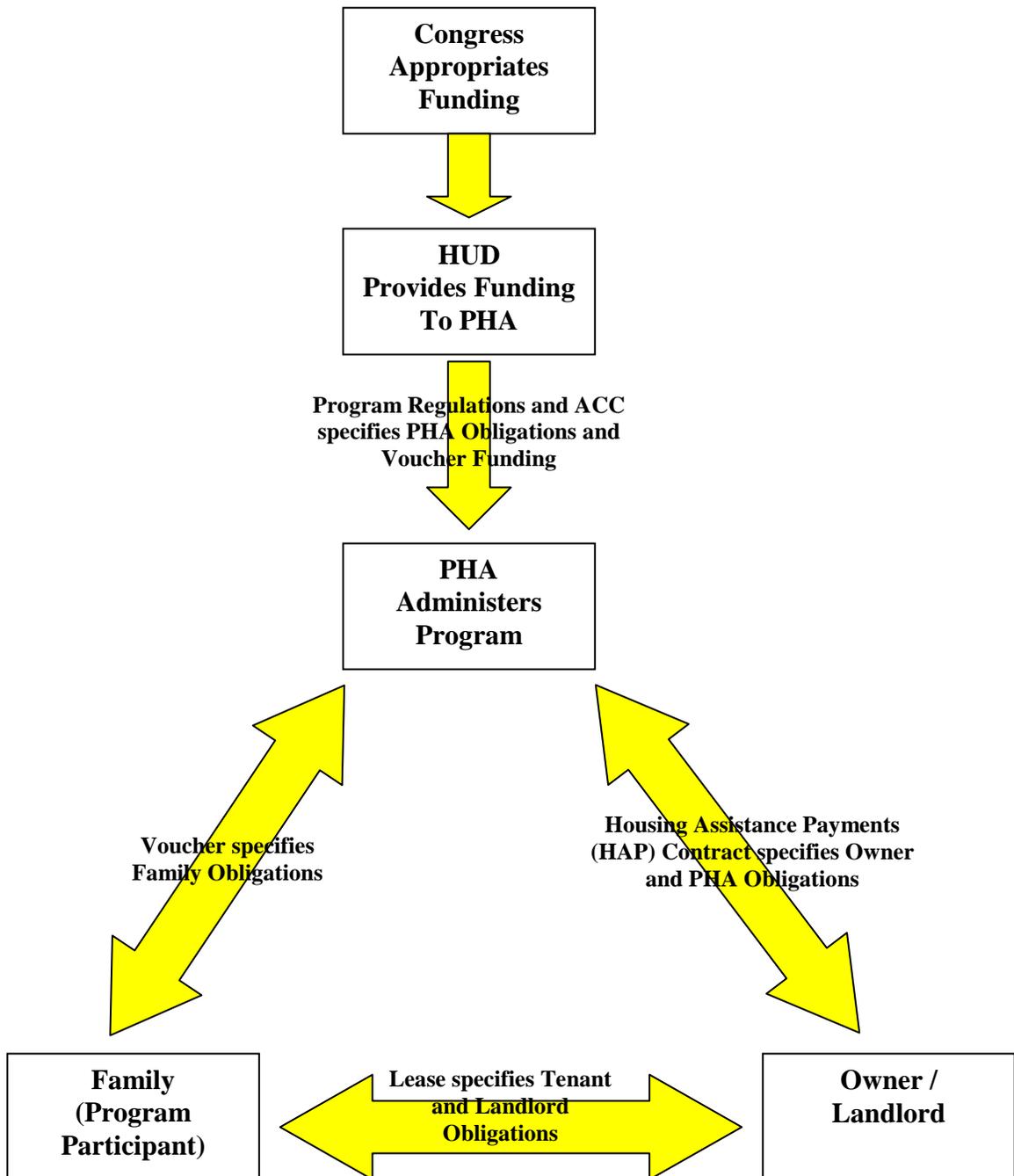
To administer the HCV program, MRHA enters into a contractual relationship with HUD. MRHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, MRHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

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

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The HCV Relationships:



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What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does MRHA do?

MRHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;
- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, MRHA's administrative plan, and other applicable federal, state and local laws.

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What does the Owner do?

The owner has the following major responsibilities:

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

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What does the Family do?

The family has the following responsibilities:

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

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

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1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

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PART III: THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in MRHA's agency plan. This administrative plan is a supporting document to MRHA agency plan, and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define MRHA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

MRHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with MRHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

HUD regulations contain a list of what must be included in the administrative plan. MRHA administrative plan must cover PHA policies on these subjects:

- Selection and admission of applicants from MRHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening MRHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If MRHA decides to allow extensions or suspensions of the voucher term, MRHA administrative plan must describe how MRHA determines whether to grant extensions or suspensions, and how MRHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to MRHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);

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- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to MRHA of amounts the family owes MRHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

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Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies PHAs have adopted. MRHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide guidance to staff and consistency to program applicants and participants.

Following HUD guidance, even though it is not mandatory, provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE PLAN

MRHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the MRHA Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

MRHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

Chapter 2: FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring MRHA to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of MRHA's housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of MRHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of MRHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published December 19, 2003 in the *Federal Register*.

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PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require MRHA 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 the basis of race, color, religion, sex, national origin, age, familial status, and disability. MRHA 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, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted
Virginia's fair housing law prohibits the following practices
(Source: <http://www.dpor.virginia.gov>)
 - Refusing to sell or rent after the making of a bona fide offer or refusing to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability;
 - Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability;
 - To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, sex, national origin, elderliness, familial status or disability. The use of words or symbols associated with a particular religion, national origin, sex or race shall be prima facie

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evidence of an illegal preference under this chapter which shall not be overcome by a general disclaimer;

- Representing to any person because of race, color, religion, sex, national origin, elderliness, familial status or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available;
- Denying any person access to membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, sex, national origin, elderliness, familial status or disability;
- To include in any transfer, sale rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, sex, national origin, elderliness, familial status or disability or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
- To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, elderliness, familial status or disability.

Virginia's Fair Housing regulations list additional actions that are prohibited. Some of the actions that the regulations prohibit on the basis of race, color, religion, sex, national origin, elderliness, familial status or disability include:

1. Failing or delaying maintenance or repairs of sales or rental dwellings;
2. Limiting the use of privileges, services or facilities associated with a dwelling;
3. Discouraging the purchase or rental of a dwelling or exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or a community, neighborhood, or development;
4. Communicating to any prospective purchaser that they would not be comfortable or compatible with existing residents of a community neighborhood or development;
5. Assigning any person to a particular section of a community neighborhood or development or to a particular floor or section of a building;
6. Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

Virginia's Fair Housing Law applies to property managers, owners, landlords, real estate agents, banks, savings institutions, credit unions, insurance companies, mortgage lenders and appraisers. If you're working with a property manager or real estate agent to buy a home or locate a rental or if you're trying to get a mortgage or homeowner's insurance you

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cannot be treated differently because of your race, color, religion, sex, national origin, elderliness, familial status or disability.

Additional prohibited actions include but are not limited to:

1. Failing to accept, consider, negotiate, process or accurately communicate a bona fide offer;
2. Imposing different sales prices or rental charges for the sale or rental of a dwelling upon person;
3. Using different qualification criteria or applications, or sales or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis, or sales or rental approval procedures or other requirements;
4. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium;
5. Employing codes or other devices to segregate or reject applicants, purchasers, or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, national origin, elderliness, familial status or disability or refusing to deal with certain brokers or agents because they or one of their clients are of a particular race, color, religion, sex, national origin, elderliness, familial status or disability;
6. Indicating through words or conduct that a dwelling, which is available for inspection, sale or rental, has been sold or rented;
7. Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services differently;
8. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling;
9. Intimidating or threatening any person because that person is engaged in activities designed to make other persons aware of or encouraging such other persons to exercise rights granted or protected by this part;
10. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the fair housing law.

Virginia's Fair Housing Law also applies to advertising. In this regard Virginia's Fair Housing regulations prohibit:

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or are not available to a particular group because of race, color, religion, sex, handicap, familial status, elderliness or national origin;
2. Selective geographic advertisements. Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited

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geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices;

3. Selective use of human models when using an advertising campaign. Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only in displays, photographs, or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

If models are use in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and when appropriate, families with children. Models, if used, should portray persons in equal settings and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness or national origin;

4. Publisher's notice. All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III, Appendix I, to Part 109, 24 CFR, Ch. 1 (4-1-89 edition). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

Local government guidelines follow the state and federal discrimination laws.

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2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

MRHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

MRHA will not discriminate on the basis of marital status or sexual orientation.

MRHA will not use any of these factors to:

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

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Providing Information to Families and Owners

MRHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, MRHA 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 Payments (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 MRHA or an owner, the family should advise MRHA. HUD requires MRHA 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, MRHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Applicants or participants who believe that they have been subject to unlawful discrimination may notify MRHA, the State of Virginia, or the Department of Housing and Urban Development (HUD) either orally or in writing.

(1) Virginia Fair Housing Office

Orally: 1-888-551-3247 (toll free) or 1-804-367-8530

**Written: Virginia Fair Housing Office, 9960 Mayland Drive, Suite 400
Richmond, VA 23233-1463**

Fax: 1-804-527-4400 TDD: Call Virginia Relay: 7-1-1

E-mail: fairhousing@dpor.virginia.gov.

(2) Department of Housing and Urban Development

Orally: 1-800-669-9777

**Written: Office of Fair Housing and Equal Opportunity
Department of Housing and Urban Development
451 Seventh Street, SW, Room 5204, Washington, DC 20410-2000
TDD: 1-800-927-9275**

Online Complaint:

http://portal.hud.gov/portal/page/portal/HUD/topics/housing_discrimination

MRHA will attempt to remedy discrimination complaints made against MRHA.

MRHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

A copy of the Virginia State form may be downloaded via the Internet at:

<https://www.crhava.org/Fair%20Housing%20Bilingual%20Complaint%20Form.pdf>

A copy of the HUD form may be downloaded via the Internet at:

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<http://www.hud.gov/offices/adm/hudclips/forms/files/903-1.pdf>

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PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

MRHA will ensure that persons with disabilities have full access to MRHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

MRHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by MRHA, by including the following language:

If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact our office at 276/403- 5193.

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2-II.B. DEFINITION OF 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 MRHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for MRHA, 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, MRHA 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 MRHA range) if MRHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout MRHA's office in such a manner as to be easily readable from a wheelchair

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2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

If the need for the accommodation is not readily apparent or known to MRHA, 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.

MRHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, MRHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

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

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

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

When verifying a disability, MRHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. 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
- MRHA must request only information that is necessary to evaluate the disability-related need for the accommodation. MRHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

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2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

MRHA 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 MRHA, or fundamentally alter the nature of MRHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

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

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

After a request for an accommodation is presented, MRHA will respond, in writing, within 10 business days.

If MRHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of MRHA's operations), MRHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If MRHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, MRHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

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2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require MRHA to ensure that persons with disabilities related to hearing and vision have reasonable access to MRHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, MRHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available. **The number is 1-800/828/1120.**

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

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2-II.G. PHYSICAL ACCESSIBILITY

MRHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

MRHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This plan describes the key policies that govern MRHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the HCV offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- MRHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

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

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

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2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of MRHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of MRHA's informal hearing process and their right to request a hearing and reasonable accommodation.

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

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

MRHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, MRHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to MRHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on MRHA.

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2-III.B. ORAL INTERPRETATION

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

MRHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, MRHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other MRHA, and will standardize documents. Where feasible and possible, MRHA will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by MRHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

In order to comply with written-translation obligations, MRHA will take the following steps:

MRHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, MRHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

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2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, MRHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If MRHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to MRHA's Housing Choice Voucher program and services.

If it is determined that MRHA serves very few LEP persons, and MRHA has very limited resources, MRHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If MRHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

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

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an 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; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-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 MRHA) as constituting such a limitation; has none of the impairments defined in this section but is 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
- Persons who objectively pose 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.

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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 purposes 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 purposes 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.

Chapter 3: Eligibility

INTRODUCTION

MRHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by MRHA 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 MRHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for family members as required.
 - Consent to MRHA's collection and use of family information as provided for in MRHA-provided consent forms.
- MRHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or MRHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and MRHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause MRHA to deny assistance.

Chapter 3: Eligibility

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

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

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. A single person family may be an elderly person, a displaced person, a disabled person, or any other single person.

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

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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

Chapter 3: Eligibility

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up [24 CFR 982.315]

MRHA 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, MRHA is bound by the court's determination of which family members continue to receive assistance.

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, MRHA 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 risks 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*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

Chapter 3: Eligibility

3-I.D. 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 that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

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.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

A marriage partner includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

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

Minors who are emancipated under state law may be designated as a cohead.

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

Chapter 3: Eligibility

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

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

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

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

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

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction, and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6.

Chapter 3: Eligibility

3-I.I. 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 cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, MRHA 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 cohead is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6.

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

3-I.J. GUESTS [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 express or implied authority to so consent.

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Chapter 3: Eligibility

3-I.K. 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 that are 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; HUD-50058 IB, p. 13].

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

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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

Absent Students

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

Chapter 3: Eligibility

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

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

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

Absent Head, Spouse, or Cohead

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

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

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].

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

Return of Permanently Absent Family Members

The family must request MRHA approval for the return of any adult family members that MRHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

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3-I.M. LIVE-IN AIDE

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

MRHA must approve a live-in aide if 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.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to MRHA verification-at each annual reexamination.

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

MRHA 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 MRHA or to another MRHA 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, MRHA will notify the family of its decision in writing.

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PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

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 adjustments 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 established 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 program at the time the family is admitted to the HCV program [24 CFR 982.4]

MRHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by MRHA.

- 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 of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

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

MRHA has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

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

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3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with MRHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an 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, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). 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 MRHA to request additional documentation of their status, such as a passport.

Family members who declare citizenship or national status will not be required to provide additional documentation unless MRHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with MRHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible 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 known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

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Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. MRHA 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 noncitizen students 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. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance 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 that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

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

MRHA will not provide assistance to a family before the verification of at least one family member.

When a MRHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with MRHA. The informal hearing with MRHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

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

For new occupants joining the assisted family, MRHA 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, MRHA 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.

MRHA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

The applicant and all members of the applicant's household age 6 or older, the family must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a household 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. A detailed discussion of acceptable documentation is provided in Chapter 7.

MRHA 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.

Addition of New Household Member: [PIH Notice 2010-03, Guidance - Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits

When a participant requests to add a new household member, who is at least six year of age or under the age of six and has an assigned SSN, to the family, the participant must disclose the assigned SSN and provide the PHA with the documentation referenced in item 6 of this notice at the time of such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA may not add the new household member until the family provides such documentation.

When a participant requests to add a new household member, who is under the age of six and does not have an assigned SSN, the participant must disclose the assigned SSN and provide the PHA with the documentation referenced in Section 6 of this Notice within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, if the PHA determines the family was unable to

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comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA should generate an ALT ID as referenced in Section 9 of this Notice. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA must terminate the family's tenancy or assistance, or both of the entire family.

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3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

MRHA 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)].

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3-II.E. 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, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be 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 MRHA policy, the income of the student's parents will not be considered in determining the 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, MRHA 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, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

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Independent Student

MRHA Policy

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

The individual is of legal contract age under state law.

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

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

Be at least 24 years old by December 31 of the award year for which aid is sought

Be 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 (for example, dependent children or an elderly dependent parent)

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. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

MRHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

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Institution of Higher Education

MRHA 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* (see Exhibit 3-2).

Parents

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

Person with Disabilities

MRHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

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, MRHA 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, MRHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents 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, MRHA will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible 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 MRHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, MRHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

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Determining Parental Income Eligibility

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

If the student's parents are married and living together, MRHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, MRHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, MRHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, MRHA 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. MRHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

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PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

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

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside MRHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking

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3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires MRHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, MRHA to admit an otherwise-eligible family if the household member has completed a MRHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

MRHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if MRHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by MRHA, or the person who committed the crime, is no longer living in the household.

- MRHA determines that any household member is currently engaged in the use of illegal drugs.

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

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

In determining reasonable cause, MRHA 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. MRHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

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3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

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

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, MRHA to deny assistance if MRHA determines that 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.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five 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 that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [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 ; or

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 MRHA (including a MRHA employee or a MRHA 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 arrests 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 its decision to deny assistance, MRHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, MRHA may, on a case-by-case basis, decide not to deny assistance.

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

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

MRHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

MRHA **will** deny assistance to an applicant family if:

The family does not provide information that MRHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to MRHA.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family 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.

If the family has not reimbursed any PHA for amounts PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with MRHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward MRHA personnel.

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

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

In making its decision to deny assistance, MRHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, MRHA may, on a case-by-case basis, decide not to deny assistance.

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3-III.D. 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 MRHA in complying with HUD requirements and MRHA 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 MRHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

MRHA will perform a criminal background check through means currently available to MRHA for every adult household member.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If MRHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, MRHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

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Screening for Suitability as a Tenant [24 CFR 982.307]

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

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

MRHA 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. MRHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

MRHA will use the concept of the 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 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.

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

HUD authorizes MRHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B).

MRHA 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, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking

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

MRHA 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.

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

HUD permits MRHA 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, to not reside in the unit.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or 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 MRHA request.

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

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

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

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3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

If MRHA determines that 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)]. See Chapter 16, for informal review policies and procedures.

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

If a MRHA 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 MRHA 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)]. MRHA 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 982.553(d)].

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible MRHA 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 to dispute the accuracy and relevance of the information. If the family does not contact MRHA to dispute the information within that 10-day period, MRHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

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3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [24 CFR Part 5, Subpart L]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4) (A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission [24 CFR 5.2005].

Definitions [24 CFR 5.2003]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

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- The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Notification

MRHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under MRHA's policies. Therefore, if MRHA makes a determination to deny admission to an applicant family, MRHA will include in its notice of denial:

A statement of the protection against denial provided by VAWA

A description of CRHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to MRHA documentation meeting the specifications below with her or his request for an informal review (see section 16-III.D)

Documentation

Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

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Perpetrator Documentation

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Time Frame for Submitting Documentation

The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, MRHA will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant MRHA determines that the family is eligible for assistance, no informal review will be scheduled and MRHA will proceed with admission of the applicant family.

MRHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

All information provided to MRHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database 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.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MRHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

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

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

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i) (1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General

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

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

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(B) Infants and Young Children

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

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

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

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

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

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Individual with Handicaps [24 CFR 8.3]

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

- (1) Physical or mental impairment includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and; and endocrine; or
 - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) *Is regarded as having an impairment* means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
 - (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

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

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

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

Definition of "Institution of Higher Education" From 20 U.S.C. 1001

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" means an educational institution in any State that
- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" also includes—
- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

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Definition of "Institution of Higher Education" From 20 U.S.C. 1002

- (a) Definition of institution of higher education for purposes of student assistance programs
 - (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term "institution of higher education" for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—
 - (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
 - (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
 - (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.
 - (2) Institutions outside the United States
 - (A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—
 - (i) In the case of a graduate medical school located outside the United States—
 - (I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and
 - (bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or
 - (II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

Chapter 3: Eligibility

- (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.
- (B) Advisory panel
- (i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
 - (I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
 - (II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.
 - (ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.
- (C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.
- (D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.
- (3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
- (A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4) (C) of this title;
 - (B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

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- (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
 - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
 - (B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

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(b) Proprietary institution of higher education

- (1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—
 - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
 - (C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
 - (D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;
 - (E) Has been in existence for at least 2 years; and
 - (F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
- (2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

- (1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—
 - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
 - (C) Has been in existence for at least 2 years.
- (2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides MRHA with the information needed to determine the family's eligibility. HUD requires MRHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, MRHA must select families from the waiting list in accordance with HUD requirements and MRHA policies as stated in the administrative plan and the annual plan.

MRHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, selecting families from the waiting list and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or MRHA to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that MRHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that MRHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and MRHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how MRHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how MRHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process MRHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide MRHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that MRHA has the information needed to make a final eligibility determination.

Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide MRHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes MRHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits MRHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by MRHA. However, MRHA must include Form HUD-92026, Supplement to Application for Federally Assisted Housing, as part of MRHA's application.

Depending upon the length of time that applicants may need to wait to receive assistance, MRHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, MRHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms from MRHA's Housing Office during normal business hours.

Completed applications must be returned to MRHA by mail, or submitted in person during normal business hours. Applications must be complete in order to be accepted by MRHA for processing. Incomplete applications will not be processed nor will the family be notified when an application is incomplete.

Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

MRHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard MRHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). MRHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or MRHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of MRHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

MRHA is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on MRHA's policies related to ensuring access to people with limited English proficiency (LEP).

Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

4-I.D. PLACEMENT ON THE WAITING LIST

MRHA must review each complete application received and make a preliminary assessment of the family's eligibility. MRHA 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 the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, MRHA 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)].

Ineligible for Placement on the Waiting List

If MRHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, MRHA will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

MRHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application.

Placement on the waiting list does not indicate that 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 the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by MRHA.

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PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

MRHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how MRHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

MRHA's HCV waiting list must be organized in such a manner to allow MRHA 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.

MRHA will maintain a single waiting list for the regular HCV program. .

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program MRHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that MRHA maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs. MRHA *does* not merge the HCV waiting list with the waiting list for any other program MRHA operates.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

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4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

MRHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, MRHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

MRHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where MRHA has particular preferences or funding criteria that require a specific category of family, MRHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

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

MRHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

MRHA will give public notice by publishing the relevant information in suitable media outlets including, the local newspaper and the local government television station MGTV, along with local radio stations.

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4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

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

Because HUD requires MRHA to serve a specified percentage of extremely low-income families (see Chapter 4, Part III), MRHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

MRHA outreach efforts must comply with fair housing requirements. This includes:

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

MRHA 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 that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

MRHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MRHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

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4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must immediately inform MRHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires MRHA to establish policies to use when removing applicant 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 MRHA request for information or updates because of the family member's disability, MRHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

The waiting list will be updated annually to ensure that all applicants and applicant information is current and timely.

To update the waiting list, MRHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that MRHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by MRHA not later than 15 business days from the date of MRHA letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, Director of Housing , or Executive Director may reinstate the family if it is determined the lack of response was due to MRHA error, or to circumstances beyond the family's control.

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Removal from the Waiting List

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

If a family is removed from the waiting list because MRHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding MRHA's decision (see Chapter 16) [24 CFR 982.201(f)].

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PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by MRHA and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, MRHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. MRHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award MRHA funding for a specified category of families on the waiting list. MRHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

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4-III.C. SELECTION METHOD

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

Local Preferences [24 CFR 982.207; HCV p. 4-16]

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

MRHA has established the following local preferences:

1. Residency Preference: For families who live, work, or have been hired to work or who are attending school in the jurisdiction. This preference does not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.
2. Victims of Domestic Violence: For families that include victims of domestic violence. To qualify for this preference:

Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the unit with the family must have occurred within the past 12 months or be of a continuing nature.

The family must have been displaced as a result of fleeing violence in the home or they are currently living in a situation where they are being subjected to or victimized by violence in the home.

The applicant must certify that the abuser will not reside with the applicant unless MRHA gives prior written approval.

3. Involuntary Displacement: Involuntarily displaced applicants are applicants who have been involuntarily displaced and are not living in standard, permanent replacement housing, or will be involuntarily displaced within no more than six months from the date of within no more than six months from the date preference status verification by MRHA. Families are considered involuntarily displaced if they are required to vacate housing as a result of:

A disaster (fire, flood, earthquake, etc.) that has caused the unit to be uninhabitable.

Federal, state or local government action related to code enforcement, public improvement or development.

Action by a housing owner which is beyond an applicant's ability to control, and which occurs despite the applicant's having met all previous conditions of occupancy, and is other than a rent increase.

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If the owner is an immediate family relative and there has been no previous rental agreement and the applicant has been part of the owner's family immediately prior to application, the applicant will not be considered involuntarily displaced.

For purposes of this definitional element, reasons for an applicant having to vacate a housing unit include, but are not limited to:

- Conversion of an applicant's housing unit to non-rental or non-residential use;

- Closure of an applicant's housing unit for rehabilitation or non-residential use;

- Notice to an applicant that s/he must vacate a unit because the owner wants the unit for the owner's personal or family use or occupancy;

- Sale of a housing unit in which an applicant resides under an agreement that the unit must be vacant when possession is transferred; or

- Any other legally authorized act that results, or will result, in the withdrawal by the owner of the unit or structure from the rental market.

Displacement by non-suitability of the unit when a member of the family has a mobility or other impairment that makes the person unable to use critical elements of the unit and the owner is not legally obligated to make changes to the unit.

Critical elements include but are not limited to:

- Entry and egress of the unit and building

- A sleeping area

- A full bathroom

- A kitchen if the person with a disability must do their own food preparation.

Due to HUD disposition of a multifamily project under Section 203 of the Housing and Community Development Amendments of 1978.

In order to receive the displacement preference, applicants who have been displaced must not be living in "standard, permanent replacement housing."

Standard replacement housing is defined as housing that is decent, safe and sanitary, according to Housing Quality Standards (HQS), that is adequate for the family size according to HQS, and that the family is occupying pursuant to a written or oral lease or occupancy agreement.

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters, and (in the case of Victims of Domestic Violence) housing occupied by the individual who engages in such violence.

It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends is considered temporary and is not considered standard replacement housing.

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4. Victims of Reprisals or Hate Crimes:

A hate crime is actual or threatened physical violence or intimidation that is directed against a person or his property and is based on the person's race, color, religion, sex, national origin, disability or familial status (including sexual orientation) and occurred within the last 6 months or is of a continuing nature. MRHA will require verification that the hate crime was reported to a law enforcement agency.

For families who provided information on criminal activities, where, after a threat assessment, a law enforcement agency recommends re-housing the family to avoid or reduce the risk of violence or reprisals against the family

The family must be part of a Witness Protection Program, or the HUD Office or law enforcement agency must have informed MRHA that the family is part of a similar program.

MRHA will take precautions to ensure that the new location of the family is concealed in cases of witness protection.

For a member of the applicant family who has been the victim of one or more hate crimes, and the applicant has vacated the unit because of the crime or the fear of such a crime has destroyed the applicant's peaceful enjoyment of the unit.

5. Working Preference

This preference is available for families with at least one member who is employed or to families whose head and spouse, or sole member is elderly or disabled.

MRHA will require a statement from the employer, or verification of the age or disability status of the head and spouse, or sole member.

6. Educational/Training Participants

This preference is available for family adult members are graduates of or participants in accredited educational or training programs designed to prepare the individual for the job market.

MRHA will require a verification statement from the agency or institution providing the education or training.

7. Involuntary Displacement due to public housing disposition, demolition, renovation, or substantial modernization with the City of Martinsville, Virginia

8. Elderly/Disabled/Handicapped

Local Preference Aggregation

Local preferences will be aggregated using a point system. The more preference points an applicant has, the higher the applicant's place on the waiting list.

Preference points are as follows:

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Items 1-7 :	1
Elderly/Handicapped/Disable	1

Tie Breaker: When there are families with the same amount of points, the date and time of the application determines the placement on the waiting list. When there are no points, then the date and time of the application determines the placement on the wait list.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

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

Low income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

MRHA will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

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Order of Selection

Non-Targeted Funding

For non-targeted funding, MRHA will select families based on the family's waiting list position.

4-III.D. NOTIFICATION OF SELECTION

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

MRHA 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 application interview, including any procedures for rescheduling the interview

- Who is required to attend the interview?

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

- Other documents and information that should be brought to the interview

If a notification letter is returned to MRHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

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4-III.E. THE APPLICATION INTERVIEW

HUD recommends that MRHA obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

Families selected from the waiting list are required to participate in an eligibility interview.

All adult family members are required to attend the interview

The interview will be conducted only if the head of household or spouse/co head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information 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 materials are missing, MRHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, MRHA will provide translation services in accordance with MRHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact MRHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, MRHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without MRHA approval 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 policies contained in Chapter 3.

Chapter 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

4-III.F. COMPLETING THE APPLICATION PROCESS

MRHA must verify all information provided by the family (see Chapter 7). Based on verified information, MRHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted admission, or selection preference that affected the order in which the family was selected from the waiting list.

If MRHA determines that the family is ineligible, MRHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, local preference, extremely low-income), the family will be returned to the waiting list, taking into account any change in the family's preference status.

MRHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If MRHA determines that the family is eligible to receive assistance, MRHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, MRHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. Once the family is fully informed of the program's requirements, MRHA issues the family a voucher. The voucher includes the unit size the family qualifies for based on MRHA's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

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

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

Part II: Subsidy Standards and Voucher Issuance. This part discusses MRHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

5-I.B. BRIEFING [24 CFR 982.301]

MRHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, MRHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

Briefings may be conducted in group meetings or individually.

The head of household is required to attend the briefing.

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

Briefings will be conducted in English. For limited English proficient (LEP) applicants, MRHA will provide translation services in accordance with MRHA's LEP plan (See Chapter 2).

Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. MRHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without MRHA approval, will be denied assistance (see Chapter 3).

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

Oral Briefing [24 CFR 982.301(a)]

Each briefing will 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 MRHA's jurisdiction; after being a resident of this jurisdiction for 12 months.
- For families eligible under portability, an explanation of portability. MRHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and MRHA's policies on any extensions or suspensions of the term. If MRHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how MRHA determines the payment standard for a family, how MRHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how MRHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit.
- If portability is allowed under the voucher issuance, an information packet is provided that includes an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.
- The HUD-required tenancy addendum, which must be included in the lease.
- The HUD-52517 form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of MRHA policy on providing information about families to prospective owners.
- MRHA subsidy standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure "A Good Place To Live" 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 complaint 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 known to MRHA.
- The family obligations under the program.
- The grounds on which MRHA may terminate assistance for a participant family because of family action or failure to act.
- MRHA informal hearing procedures including when MRHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
- The family's rights as a tenant and a program participant.
- Requirements for reporting changes between annual re-certifications.
- The MRHA utility allowance tables.
- 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.

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. MRHA must inform families of these obligations during the oral briefing, and the same information must be 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. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify MRHA of a change, notifying MRHA of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to MRHA, the notice must be in writing.

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that MRHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by MRHA 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 sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow MRHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

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

MRHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

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

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to MRHA at the same time the owner is notified.

- The family must promptly give MRHA 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 MRHA and the landlord. The family must promptly notify MRHA *and landlord* in writing of the birth, adoption, or court-awarded custody of a child. The family must request MRHA and the landlord approval to add any other family member as an occupant of the unit.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. MRHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify MRHA and the landlord in writing if any family member no longer lives in the unit.
- If MRHA and the landlord have given approval, a foster child or a live-in aide may reside in the unit. MRHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when MRHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by MRHA to verify that the family is living in the unit or information related to family absence from the unit.

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- The family must promptly notify MRHA when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to MRHA at the start of the extended absence.
- The family must pay and keep all utility bills current and provide and maintain any appliances that the owner is not required providing under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- 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. See Chapter 12 for HUD and MRHA policies related to drug-related and violent criminal activity.
- 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. See Chapter 12 for a discussion of HUD and MRHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a 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 MRHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

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

For each family, MRHA determines the appropriate number of bedrooms under MRHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when MRHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the 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 the 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 MRHA 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;

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under MRHA subsidy standards.
- MRHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, and children under age 13) may be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

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

Voucher Size	Persons in Household (Minimum – Maximum)
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	4-6
4 Bedrooms	6-8
5 Bedrooms	8-10

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5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, MRHA may grant an exception to its established subsidy standards if MRHA determines that the exception is justified by the age, sex, 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's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b) (8)].

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

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

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

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, MRHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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

A voucher can be issued to an applicant family only after MRHA has determined that the family is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

MRHA 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, MRHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10]. Prior to issuing any vouchers, MRHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If MRHA determines that there is insufficient funding after a voucher has been issued, MRHA may rescind the voucher and place the affected family back on the waiting list.

MRHA may over-issue vouchers only to the extent necessary to meet leasing goals. Once the leasing goals are met, the remaining non-leased vouchers will be rescinded and the family will be placed back on the waiting list.

Chapter 5: BRIEFINGS AND VOUCHER ISSUANCE

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

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

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless MRHA grants an extension.

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

MRHA 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 that MRHA can approve. Discretionary policies related to extension and expiration of search time must be described in MRHA's administrative plan [24 CFR 982.54].

MRHAs will 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.

The family will be notified in writing of MRHA's decision to approve or deny an extension. MRHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

The Housing Coordinator or Executive Director must approve voucher extensions.

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

When a Request for Tenancy Approval and proposed lease is received by MRHA, the term of the voucher will not be suspended while MRHA processes the request.

Expiration of Voucher Term

When an applicant family's voucher term expires, the PHA will automatically place the family back on the waiting list. The family's application date will be changed to the date the voucher expired.

Within 10 working days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family is not required to reapply for assistance. The notification will also include the revised date of the family's application.

Chapter 6: Income and Subsidy Determinations

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and MRHA's subsidy. MRHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and MRHA policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and MRHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require MRHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and MRHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and MRHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining MRHA subsidy and required family payment.

Chapter 6: Income and Subsidy Determinations

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

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

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

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

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

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

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

Chapter 6: Income and Subsidy Determinations

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or 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].

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

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

Chapter 6: Income and Subsidy Determinations

Absences Due to Placement in Foster Care

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

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

Absent Head, Spouse, or Co-head

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

Family Members 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].

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

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

Joint Custody of Dependents

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

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MRHA 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.

Chapter 6: Income and Subsidy Determinations

Caretakers for a Child

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

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases MRHA will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Chapter 6: Income and Subsidy Determinations

6-I.C. ANTICIPATING ANNUAL INCOME

MRHA 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

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

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- MRHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

MRHA is required to use HUD’s Enterprise Income Verification (EIV) system. HUD allows MRHA to use pay-stubs to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where MRHA does not determine it is necessary to obtain additional third-party data. For more information, refer to Exhibit 6-6, Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System at the end of this chapter.

When EIV is obtained and the family does not dispute the EIV employer data, MRHA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, MRHA will make every effort to obtain at least 4 consecutive pay stubs dated within the last 60 days.

MRHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other EIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If MRHA determines additional information is needed.

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

When MRHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), MRHA 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.

Chapter 6: Income and Subsidy Determinations

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

Known Changes in Income

If MRHA 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 \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case MRHA would calculate annual income as follows:
 $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases MRHA 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 MRHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

Chapter 6: Income and Subsidy Determinations

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

For persons who regularly receive bonuses or commissions, MRHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, MRHA will use the prior year amounts. In either case the family may provide, and MRHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, MRHA will count only the amount estimated by the employer. The file will be documented appropriately.

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. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

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)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or 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].

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Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c) (5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c) (17)], including:

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

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for MRHA 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 MRHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c) (8) (iv)].

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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)].

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

MRHA 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, MRHA 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 MRHA's interim reporting requirements.

HUD-Funded Training Programs

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

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

Earned Income Tax Credit

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

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

Chapter 6: Income and Subsidy Determinations

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

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

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

Calculation of the Disallowance

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

MRHA 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.

Chapter 6: Income and Subsidy Determinations

Initial 12-Month Exclusion

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

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

Second 12-Month Exclusion

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

Lifetime Limitation

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

During the 48-month eligibility period, MRHA 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).

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6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

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

Business Expenses

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

To determine business expenses that may be deducted from gross income, MRHA 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 MRHA to deduct from gross income expenses for business expansion.

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

Capital Indebtedness

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

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

Negative Business Income

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

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Withdrawal of Cash or Assets from a Business

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

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

Co-owned Businesses

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

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6-I.G. ASSETS [24 CFR 5.609(b) (3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that MRHA 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, MRHA 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 MRHA policies related to each type of asset.

General Policies

Income from Assets

MRHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes MRHA 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) MRHA 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, MRHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to MRHA 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 MRHA to make a distinction between an asset’s market value and its cash value.

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

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

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

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

When net family assets are \$5,000 or less, MRHA 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, MRHA 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 MRHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset unless the family presents evidence that the asset is not effectively owned by the family member. 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, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

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

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

Minimum Threshold

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

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

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual 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.

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

Foreclosure or Bankruptcy

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

Family Declaration

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

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Types of Assets

Checking and Savings Accounts

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

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

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

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

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

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

In determining the market value of an investment account, MRHA 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), MRHA will calculate asset income based on the earnings for the most recent reporting period.

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Equity in Real Property or Other Capital Investments

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

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

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

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

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

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

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Trusts

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

Revocable Trusts

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

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

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

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Personal Property

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

In determining the value of personal property held as an investment, MRHA will use the family's estimate of the value. MRHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

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

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

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, 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.

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6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b) (4)]. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

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

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)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

MRHA 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.

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- 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)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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

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6-I.J. WELFARE ASSISTANCE

Overview

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

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

MRHA 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, MRHA must include in annual income “imputed” welfare income. MRHA must request that the welfare agency inform MRHA 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)].

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6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

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

MRHA will count court-awarded amounts for alimony and child support unless MRHA 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].

If the amount of child support or alimony received is less than the amount awarded by the court, MRHA will use the amount awarded by the court. However, if the court ordered amount is not being received, actual payments received for the last twelve months will be used, including payments that vary from month to month, irregular payments, and lump sums.

MRHA will accept verification that the family is receiving an amount less than the award if: MRHA receives verification from the agency responsible for enforcement or collection.

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.

For child support or alimony not being paid through a government agency, MRHA will accept the following documents as proof of payment: court documents, notarized statement from the payee stating the amount and frequency of payment, and/or self-certification from the resident responsible for the children.

It is the family's responsibility to supply a certified copy of the divorce decree.

All unusual cases involving child support will be dealt with on a case by case basis and approved by the HCV Coordinator.

Regular Contributions or Gifts

MRHA 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)].

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6-I.L. 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, MRHA 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.

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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.

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6-I.M. 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:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

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- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (l) 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)
- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (n) 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)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (p) 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)
- (q) 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)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

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PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

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

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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

Anticipating Expenses

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

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

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6-II.B. DEPENDENT DEDUCTION

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

The medical expense deduction is permitted only for families in which the head, spouse, or 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.”

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, noncosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)

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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.

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

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

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

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

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

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

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

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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.

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, MRHA 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.

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

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Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

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6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

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

Seeking Work

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

Furthering Education

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

Being Gainfully Employed

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

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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.

MRHA 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].

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, MRHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

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

Allowable Child Care Activities

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

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

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, MRHA 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.

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Necessary and Reasonable Costs

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

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

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

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PART III: CALCULATING FAMILY SHARE AND MRHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

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

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

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

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

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is \$50.

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds MRHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy MRHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

MRHA Subsidy [24 CFR 982.505(b)]

MRHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

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

MRHA will make utility reimbursements only to the utility provider.

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

Overview

If MRHA establishes a minimum rent greater than zero, MRHA 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 MRHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

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

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

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

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

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

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

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

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

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

MRHA has not established any additional hardship criteria.

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Implementation of Hardship Exemption

Determination of Hardship

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

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

MRHA 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 MRHA has established a minimum rent of \$35.	
Family Share – No Hardship	Family Share – With Hardship
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
\$35 Minimum rent	\$35 Minimum rent
Minimum rent applies. TTP = \$35	Hardship exemption granted. TTP = \$15

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

MRHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

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

Temporary Hardship

If MRHA determines that a qualifying financial hardship is temporary, MRHA 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.

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

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

Long-Term Hardship

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

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

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

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6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

MRHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of MRHA's payment standards. The establishment and revision of MRHA's payment standard schedule are covered in Chapter 16.

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

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under MRHA'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 MRHA 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, MRHA must use the appropriate payment standard for the exception area.

MRHA 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, MRHA 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 MRHA 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. MRHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, MRHA 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: MRHA 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 MRHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. MRHA 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.

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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 MRHA 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, MRHA is allowed to establish a higher payment standard for the family within the basic range.

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

Overview

A MRHA-established utility allowance schedule is used in determining family share and MRHA subsidy. MRHA 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 MRHA subsidy standards. See Chapter 5 for information on MRHA's subsidy standards.

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

Reasonable Accommodation

HCV program regulations require a MRHA to approve a utility allowance amount higher than shown on MRHA'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, MRHA will approve an allowance for air-conditioning, even if MRHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide MRHA 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, MRHA must use MRHA current utility allowance schedule [24 CFR 982.517(d)(2)].

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

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MRHA must prorate the assistance provided to a mixed family. MRHA 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 MRHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, MRHA subsidy would be reduced to \$250.

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EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

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

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

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

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

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(6) Welfare assistance payments.

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

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

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

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

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

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

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

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

(9) For section 8 programs only and as provided in 24 CFR 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 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)), 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.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

¹ Text of 45 CFR 260.31 follows.

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

(b) [The definition of “assistance”] excludes: (1) Nonrecurring, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

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EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS²

24 CFR 5.609

(c) Annual income does not include the following:

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

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

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

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

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

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

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

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security

Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for MRHA 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 MRHA's governing board. No resident may receive more than one such stipend during the same period of time;

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

² FR Notice 11/24/08 makes note of pending revisions to this regulation, namely the exclusion of any deferred disability benefits received in lump-sum or prospective monthly amounts from the Department of Veterans Affairs (VA). At the time of publication, 24 CFR 5.609 had yet to be updated.

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(9) Temporary, nonrecurring or sporadic income (including gifts);

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

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

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

(13) [Reserved]

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

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

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

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

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

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

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

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

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

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

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

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

h) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians

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from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

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

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

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

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

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

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

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

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

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

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

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

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EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, MRHAs 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 there for. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

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

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

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

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

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

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

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

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

(c) *Disallowance of increase in annual income—*

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

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

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

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

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EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

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

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

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) Imputed welfare income.

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

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

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

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

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

(d) Review of MRHA decision.

(1) Public housing. If a public housing tenant claims that MRHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if MRHA denies the family's request to modify such amount, MRHA shall give the tenant written notice of such denial, with a brief explanation of the basis for MRHA determination of the amount of imputed welfare income. MRHA notice shall also state that if the tenant does not agree with MRHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review MRHA 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 MRHA determination.

(2) Section 8 participants. 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 MRHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if MRHA denies the family's request to modify such amount, MRHA shall give the family written notice of such denial, with a brief explanation of the basis for MRHA determination of the amount of imputed

welfare income. Such notice shall also state that if the family does not agree with MRHA determination, the family may request an informal hearing on the determination under MRHA hearing procedure.

(e) MRHA relation with welfare agency.

(1) MRHA must ask welfare agencies to inform MRHA 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 MRHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) MRHA 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 MRHA. However, MRHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

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

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EXHIBIT 6-6: Notice PIH 2010-19



U.S. Department of Housing and Urban Development

Special Attention of: 2010 - 19 (HA)

Notice PIH

Public Housing and Section 8 Program Administrators,
Public Housing Hub Office Directors; Public Housing
Resident Management Corporations; Resident Councils;
Applicants and Participants of Public Housing, Housing
Choice Voucher, Section 8 Moderate Rehabilitation,
and Project-Based Certificate and Voucher Programs

Issued: May 17, 2010

Expires: May 31, 2011

Cross References: 24 CFR §5.233,
24 CFR §5.236, 24 CFR §908.101

SUBJECT: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

- Purpose:** This Notice provides Public Housing Agencies (PHAs) with administrative guidance related to the mandated use of HUD's Enterprise Income Verification (EIV) system, as required in accordance with the new HUD regulation, 24 CFR §5.233, as issued in the *Final Rule: Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments*, effective January 31, 2010, as published at 74 FR 68924, on December 29, 2009.
- Applicability:** This Notice applies to the following HUD-PIH rental assistance programs: Public Housing, Section 8 Moderate Rehabilitation, Project-Based Voucher, Project-Based Certificate, and Housing Choice Voucher (HCV) Programs.

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3. **Background:** On December 29, 2009, HUD issued the final rule entitled *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification (EIV) System-Amendments*, which requires PHAs to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD.

Using EIV as an upfront income verification (UIV) technique will be valuable in validating tenant-reported income during interim and annual reexaminations of family income; as well as streamlining the income verification process. This will result in less administrative burden in complying with third party verification requirements. Additionally, EIV will help to identify and cure inaccuracies in housing subsidy determinations, which will benefit PHAs, tenants, and taxpayers by ensuring that the level of benefits provided on behalf of families is proper and will prevent fraud and abuse within Public and Indian Housing (PIH) rental assistance programs.

4. **Effective Date:** This Notice is effective as of issuance date.
5. **The New HUD Regulation: 24 CFR 5.233.** Effective January 31, 2010, all PHAs are required to use the EIV system in its entirety. This means that PHAs must use all features of the EIV system to:
 - a. Verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR §5.236, and HUD administrative guidance; and
 - b. Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

Chapter 6: Income and Subsidy Determinations

6. **What is the EIV System?** The EIV System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

All PHAs are required to review the EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique in many instances will reduce the need to mail or fax third party verification request forms to an income source. EIV also provides various reports to assist PHAs with the following:

- a. Identifying tenants whose reported personal identifiers do not match the SSA database;
 - b. Identifying tenants who need to disclose a SSN;
 - c. Identifying tenants whose alternate identification number (Alt ID) needs to be replaced with a SSN;
 - d. Identifying tenants who may not have reported complete and accurate income information;
 - e. Identifying tenants who have started a new job;
 - f. Identifying tenants who may be receiving duplicate rental assistance;
 - g. Identifying tenants who are deceased and possibly continuing to receive rental assistance;
 - h. Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.
7. **How to obtain access to the EIV System.** All PHA staff (including PHA-hired management agents), who have a need to access the EIV system, is required to complete and submit the EIV Access Authorization Form & Rules of Behavior and User Agreement to their designated EIV Coordinator in the local HUD office.

The form is available online at:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>.

The user's access must be approved by the PHA Executive Director or designee in order for the local HUD office to process all EIV access requests. Individuals who will not directly access the EIV system, but will have access to the EIV data in printed or electronic form is also required to complete the EIV Access Authorization Form & Rules of Behavior and User Agreement and maintain on file (do not submit the form to the local HUD office).

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8. **The Verification Hierarchy.** PHAs should begin with the highest level of verification techniques.

PHAs are required to access the EIV system and obtain an Income Report for each household. The PHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the PHA should attempt the next lower level verification technique, as noted in the below chart.

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written third Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute)
3	Written Third Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

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Verification Technique Definitions

Third Party Verification Techniques

Upfront Income Verification (UIV) (Level 6/5): The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

Written Third Party Verification (Level 4): An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third party verification form or the best available information.

Note: Documents older than 60 days (from the PHA interview/determination or request date) is acceptable for confirming effective dates of income.

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Written Third Party Verification Form (Level 3): Also, known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

This verification method is commonly used in the event that the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, i.e., ten (10) business days.

Non-Third Party Verification Technique

Tenant Declaration (Level 1): The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

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Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, “The PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available.**”

9. **Third party verification requirements.** In accordance with 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

10. **How to comply with and reduce administrative burden of third party verification requirements of family annual income.** PHAs can comply with and reduce administrative burden of third party verification requirements for employment, wage, unemployment compensation and social security benefits, and any other information that is verifiable using EIV by:
 - a. Reviewing the EIV Income Report to confirm/validate tenant-reported income; and
 - b. Printing and maintaining an EIV Income Report (or an EIV Individual Control Number (ICN) page for interim reexaminations as prescribed in Section 12 of this Notice) in the tenant file; and
 - c. Obtaining current acceptable tenant-provided documentation to supplement EIV information; and
 - d. Using current tenant-provided documentation and/or third party verification to calculate annual income.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

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The PHA may also reduce the administrative burden of obtaining third party verification by relying on acceptable documents that are generated by a third party, but provided by the tenant. Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

11. **When the PHA is required to request written third party verification** The PHA must request written third party verification under the following circumstances:

- a. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));
- b. When the PHA requires additional information that is not available in EIV and/or the tenant is unable to provide the PHA with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:
 - i. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
 - ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
 - iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

Note: 24 CFR §5.236(a), prohibits PHAs from taking adverse action based solely on EIV information.

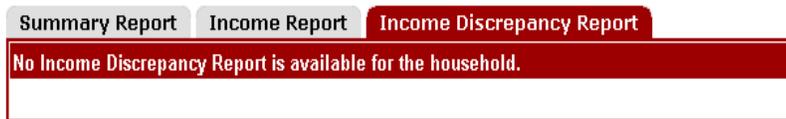
12. **Type of file documentation required to demonstrate PHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)).**

- A. For each new admission (form HUD-50058 action type 1), the PHA is required to do the following:
 - i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
 - ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
 - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- B. For each historical adjustment (form HUD-50058 action type 14), the PHA is required to do the following:
 - i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
 - ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
 - iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

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C. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, the PHA is required to have the following documentation in the tenant file:

- i. **ICN Page** when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. (PHAs have the discretion to print the EIV Income report, however, only the ICN page is required.) See sample screen shot below.



Note: The ICN Page is available from the Summary Report tab. See sample Screen shot below:

Income Information >> [By Head of Household](#) >> Summary Report

[Print All](#)

Summary Report		Certification Page	Income Report	Income Discrepancy Report		
Head of Household Identifiers						
Name:	MIKILA					
Social Security Number:	***.**-****					
Date of Birth (mm/dd/yyyy):	XX/XX/1989					
Program Type:	Sec 8 Vouchers					
Project:						
Unit Address:						
Participant Code:						
Annual Reexamination Date:	05/01/2010					
Tenant Data from Form 50058 as of:	10/20/2009					
Most Recent Type of Action:	3-Interim Reexamination					
Effective Date:	10/01/2009					
Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
.**-*	MIKILA		XX/XX/1989	20	Head	Verified
.**-*	MALAYA		XX/XX/2009		Other youth under 18	Verified
The month and day values in the Date of Birth field have been masked for security reasons.						
<input type="button" value="Provide ICN"/>				Click here to generate printer-friendly ICN page		
Confidential Privacy Act Data. Civil and Criminal penalties apply. Report Generated By: H18XXX NICOLE X FAISON						

- ii. **EIV Income Report** when there **is** an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. See sample screen shot below.

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Summary Report	Income Report	Income Discrepancy Report
Head of Household Information		
Name:	DEBRA [REDACTED]	
Social Security Number:	[REDACTED]	
Program Type:	Public Housing	
Project:	[REDACTED]	
Effective Date of Action:	03/10/2009	
Annual Reexamination Date:	02/01/2010	
Projected Annual Wages and Benefits from Form HUD-50058:	\$8,328.00	
Period Of Income for Discrepancy Analysis	12/10/2007 - 12/09/2008	
Discrepancy Analysis	Actuals	Annualized Last Quarter
Reported Annual Wages and Benefits from EIV Data:	\$24,919.06	\$26,131.00
Amount of Annual Income Discrepancy:	(\$16,591.06)	(\$17,803.00)
Amount of Monthly Income Discrepancy:	(\$1,382.59)	(\$1,483.58)
Percentage of Income Discrepancy:	(66.58%)	(68.13%)
Note: Negative numbers represent potential under reporting of income. Please discuss this income discrepancy with the tenant. Positive numbers represent potential decrease in tenant income.		
Confidential Privacy Act Data. Civil and Criminal penalties apply to misuse of this data. Report Generated By - HHS XXX NICOLE X FAISON		

D. For each annual reexamination of family income and composition, the PHA is required to have the following documentation in the tenant file:

- i. **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and *if necessary* (as determined by the PHA), traditional third party verification form(s). See examples 1 and 3 below.
- ii. **Disputed EIV Information:** EIV Income report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s) for disputed information. See example 2 below.
- iii. **Tenant-reported income not verifiable through EIV system:** Current tenant-provided documents, and *if necessary* (as determined by the PHA), traditional third party verification form(s). See example 3 below.

Example 1: No Disputed EIV Information & Tenant Provided Documents

You are conducting an annual reexam with tenant, Mary Jones. Ms. Jones reports that she is employed at the ABC Box Company. You pull up the EIV income report for the Jones family, which shows quarterly wages from the ABC Box Company for the full year of 2008, and the first two quarters of 2009. Last year's (2009) annual reexam reflects wages from the same employer. There is no other income information on the report.

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The PHA may streamline the income verification process by requesting Ms. Jones provide current pay stubs dated within the last 60 days of the interview or PHA request date. The PHA must obtain a minimum of two current and consecutive pay stubs from Ms. Jones. Since there is no disparity between tenant-reported and EIV-reported income, the PHA may obtain original and current tenant-provided pay stubs to calculate annual income.

The PHA may **not** use quarterly EIV wage (or unemployment benefit) information to calculate annual income since this information is at least six months old and more current income information (from pay stubs) is available.

Example 2: Disputed EIV Information & No Tenant-Provided Documents

You are conducting an annual reexam with tenant, Bob Miller. Mr. Miller reports that his only source of income is monetary support from his sister, Betty Miller. You pull up the EIV income report for the Miller family, which shows quarterly wages from the Home Depot for the full year of 2008, and the first two quarters of 2009. There is no other income information on the EIV report. Last year's (2009) annual reexam reflects no wage information and only source of income is other non-wage income (monetary support from family member).

You inform Mr. Miller that the EIV system shows wages from the Home Depot and ask him to provide you with current pay stubs. Mr. Miller states that he does not work there and has no pay stubs.

Because Mr. Miller disputes the EIV-reported income and is unable to provide documents to support his dispute, the PHA **must** request written third party verification from Home Depot. You mail a third party verification request form to the address listed for Home Depot.

A few days later, you receive the third party verification request form back from Home Depot, which indicates that Mr. Miller has been employed there since January 5, 2008, and a payroll summary report, showing Mr. Miller's bi-weekly gross and net pay since January 2008. Since the disputed EIV information has been confirmed to be correct by the independent third party source (Home Depot), the PHA will use the income information from the payroll summary report to calculate annual income. The PHA would also calculate the retroactive rent (using the information provided by Home Depot) since Mr. Miller failed to disclose his employment at the 2008 and 2009, annual reexams. The PHA would also inform Mr. Miller of this retroactive rent and take action according to PHA-established policies.

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Example 3: Tenant Unreported Income, Income not Verifiable through EIV & Tenant- Provided Documents

You are conducting an annual reexam with tenant, Sharon Duvet. Ms. Duvet reports that her only source of income is child support and provides you with four current and consecutive child support pay stubs. You pull up the EIV Income Report for the Duvet family, which shows: hire date at the District Police Department effective January 9, 2005; quarterly wages from the District Police Department for the full years of 2005, 2006, 2007, and 2008, and the first two quarters of 2009. There is no other income information on the EIV Income Report. Last year's (2009) annual reexam reflects income from only child support. You inform Ms. Duvet that the EIV system is showing wages from the District Police Department and you ask her to provide you with current pay stubs. Ms. Duvet admits that she has been working at the District Police Department and indicates that she can provide you with current pay stubs. You inform Ms. Duvet that you will also have to calculate her retroactive rent for the previous years in which she did not disclose her employment. You go over the EIV-reported wages with Ms. Duvet and she indicates that she does not dispute the information.

Since Ms. Duvet does not dispute the EIV-reported information, the PHA may use the tenant provided documents to calculate income and rent for the 2010 annual reexam, and use the EIV-reported earnings for years 2005 through 2008, to calculate the retroactive rent Ms. Duvet will owe. The PHA should require Ms. Duvet to provide her last pay stub from 2009, or her 2009 W-2, to calculate the retroactive rent for 2009. The PHA will use the tenant-provided child support pay stubs (child support income is not available in EIV) to calculate annual income from this source.

13. **What if the tenant does *not* provide the PHA with requested information?** If the tenant does not provide the requested information, the PHA may mail or fax a third party verification request form to the third party source. The PHA is **required** to request third party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. However, the PHA should **also** remind the tenant that s/he is required to supply any information requested by the PHA for use in a regularly scheduled annual or interim reexamination of family income and composition.

The PHA may **determine** that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner (as prescribed by the PHA).

14. **How to use EIV to reduce administrative and subsidy payment errors.** EIV has the ability to identify other potential issues which may impact a family's level of assistance. EIV contains stand-alone reports, which a PHA may generate at any time (i.e. Deceased Tenants Report, New Hires Report, Multiple Subsidy Report, Identity Verification Report, Income Discrepancy Report, Debts Owed to PHAs & Termination Report, and Immigration Report). However, it should be noted that the information from these stand-alone reports are contained in the Income Report for each household. PHAs are required to address any and all potential issues at the time of the annual or interim reexam, as conveyed in the Income Report.

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PHAs may use the stand-alone reports to monitor staff's progress in reducing the following administrative and subsidy payment errors by using the listed reports:

- a. Incorrect/invalid SSNs/name/date of birth – Identity Verification Report
- b. Follow-up with families who need to disclose a SSN – Immigration Report
- c. Duplicate rental assistance – Multiple Subsidy Report
- d. Unreported increase in income – Income discrepancy Report
- e. Improper payments on behalf of deceased tenants – Deceased Tenants Report
- f. Unreported new employment (PHAs with interim increase policy) – New Hires Report
- g. Adverse Termination/Outstanding Debt to PHA – Debts Owed to PHAs & Termination Search

In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are **required** to monitor the following EIV reports on a monthly basis:

1. Deceased Tenants Report
2. Identity Verification Report
3. Immigration Report

In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are **required** to monitor the following EIV reports on a quarterly basis:

1. Income Discrepancy Report
2. Multiple Subsidy Report
3. New Hires Report (if your agency has an interim increase policy)

15. **How to use the EIV Income Report as a third party source to verify tenant employment and income information.** The EIV Income Report provides a variety of information about each household member of the family. The report contains the following information for each household member:

- a. Personal identifiers: name, date of birth, and SSN
- b. Identity verification status (pending, verified, deceased, or failed)
- c. Employment information
 1. New Hire Information (W-4)
 - i. Date hired
 - ii. Employer name
 2. Employer name, address, and employer identification number of current and past employers
 3. Quarterly earnings
- d. Quarterly unemployment compensation
- e. Social Security benefit information
 1. Social Security (SS) benefits

Comment [NF1]: Added in response to OIG comment

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- i. Payment status code
- ii. Date of current entitlement
- iii. Current net monthly benefit amount (if payable)
- iv. Gross monthly benefit history (last 8 changes in benefit amount)
- v. Lump sum payment amount and date
- vi. Payee name and address
2. Dual Entitlement (Social Security benefits under another person's SSN)
 - i. Claim Number (the other person's SSN)
 - ii. Payment status code
 - iii. Date of current entitlement
 - iv. Current net monthly benefit amount (if payable)
 - v. Gross monthly benefit history (last 8 changes in benefit amount)
 - vi. Payee name and address
3. Supplemental Security Income (SSI)
 - i. Payment status code
 - ii. Alien indicator
 - iii. Current net monthly benefit amount
 - iv. Current monthly state supplement benefit amount (if available)
 - v. Gross monthly benefit history (last 8 changes in benefit amount)
 - vi. Payee name and address
4. Medicare data
 - i. Payee name and address
 - ii. Monthly hospital insurance premium amount, buy-in status, and buy-in start and end dates
 - iii. Monthly supplemental medical insurance premium amount, buy-in status, and buy-in start and end dates
- f. Disability status and onset date
- g. Identity verification status
- h. Indicator of possible multiple rental subsidy
- i. Indicator of debt and/or termination information from another PHA (effective September 2010)

All EIV Income Reports contain the date the report was generated and by whom; and the date EIV received each type of information.

To minimize tenant underreporting of income, PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual or interim reexamination of family income and composition.

In accordance with 24 CFR §5.236(b)(2)(3), PHAs are required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the PHA is required to take the following actions:

1. Discuss the income discrepancy with the tenant; and
2. Request the tenant to provide any documentation to confirm or dispute the unreported

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or underreported income and/ or income sources; and

3. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the PHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
4. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively*; and
5. Take any other appropriate action as directed by HUD or the PHA's administrative policies.

*The PHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

Note: A substantial difference is defined as an amount equal to or greater than \$2,400, annually.

The tenant must be provided an opportunity to contest the PHA's determination of tenant rent underpayment. HUD regulations require PHAs to promptly notify tenants in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with the PHA's established grievance procedures, as required by HUD. The PHA may not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the PHA is required to obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the PHA may reject any tenant-provided documentation, if the PHA deems the documentation unacceptable. The PHA may reject documentation provided by the tenant for only the following HUD-approved reasons:

1. The document is not an original; or
2. The original document has been altered, mutilated, or is not legible; or
3. The document appears to be a forged document (i.e. does not appear to be authentic).

The PHA should explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the PHA deems necessary to complete the income determination process, the PHA is required to submit a traditional third party verification form to the third party source for completion and submission to the PHA.

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If the third party source does not respond to the PHA's request for information, the PHA is required to document the tenant file of its attempt to obtain third party verification and that no response to the third party verification request was received.

The PHA should then pursue lower level verifications in accordance with the verification hierarchy listed in section 8 of this notice.

16. **Tenant Repayment Agreement.** Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any PHA-sponsored amnesty or debt forgiveness programs.

All repayment agreements must be in writing, dated, signed by both the tenant and the PHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

- a. Reference to the paragraphs in the Public Housing lease or Section 8 information packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- b. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the PHA.
- c. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- d. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHAs are required to determine retroactive rent amount as far back as the PHA has documentation of family reported income. For example, if the PHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, the PHA is only able determine retroactive rent for the three years for which documentation is available.

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The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income. However, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures.

Example:

- Family's monthly adjusted income is \$1,230.
- Family's monthly rent payment is \$369 (30% of the family's monthly adjusted income).
- 40% of the family's monthly adjusted income is \$492.
- The monthly payment for the repayment agreement should not exceed \$123 per month (\$369 monthly rent + \$123 repayment = \$492, 40% of the family's monthly adjusted income.)

Repayment Time Period. The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Example: The tenant agrees to repay \$1,000, by making a monthly payment of \$25 for 40 months.

Repayment Options. Tenants have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above
 - a. For example, a tenant may owe \$1,000, make a lump sum payment of \$300 and enter into a repayment agreement for the remaining balance of \$700.

17. **How long should the PHA maintain EIV printouts in a tenant file?** The PHA's record retention policy will determine the length of time the PHA should maintain EIV printouts in a tenant file. PHAs are authorized to maintain the EIV Income Report in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. In accordance with revised regulation, 24 CFR §908.101, PHAs are required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

18. **Disclosure of an Individual's EIV Information.** The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member

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may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

However, the PHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by the PHA for the purpose of determining eligibility and level of assistance for a PIH rental assistance program may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

19. What to do if the EIV Information is incorrect.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures tenants and PHAs should follow regarding incorrect EIV information.

Employment and wage information reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.

If the tenant disputes this information, s/he should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file. If employer resolution is not possible, the tenant should contact the local SWA for assistance.

Unemployment benefit information reported in EIV originates from the local SWA. If the tenant disputes this information, s/he should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide the PHA with this written correspondence so that it may be maintained in the tenant file.

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SS and SSI benefit information reported in EIV originates from the SSA. If the tenant disputes this information, s/he should contact the SSA at (800) 772-1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

Note: The tenant may also provide the PHA with third party documents which are in the tenant's possession to support their dispute of EIV information. The PHA, with the tenant's consent, is required to submit a third party verification form to third party sources for completion and submission to the PHA, when the tenant disputes EIV information and is unable to provide documentation to validate the disputed information. The tenant's failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

Debts owed to PHAs and termination information reported in EIV originates from the PHA. If a current or former tenant disputes this information, s/he should contact the PHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the PIH program.

Identity Theft. Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual's SSN. However, a person using an individual's SSN can get other personal information about that individual and apply for credit in that individual's name. So, if the tenant suspects someone is using his/her SSN, s/he should check their Social Security records to ensure their records are correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>); and s/he should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The tenant should provide the PHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

Tenants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: www.annualcreditreport.com or by contacting the credit reporting agency directly. Each agency's contact information is listed below.

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National Credit Reporting Agencies Contact Information

Equifax Credit Information Services, Inc.
P.O. Box 740241
Atlanta, GA 30374

Website: www.equifax.com

Telephone: (800) 685-1111

Experian

P.O. Box 2104
Allen, TX 75013

Website: www.experian.com

Telephone (888) 397-3742

TransUnion

P.O. Box 6790
Fullerton, CA 92834

Website: www.transunion.com

Telephone: (800) 680-7289 or (800) 888-4213

20. **Security of EIV Data.** The data in EIV contains personal information on individual tenants which is protected under the Federal Privacy Act. The information in EIV may only be used for limited official purposes, as noted below.

A. Official Purposes Include:

1. PHAs, in connection with the administration of PIH programs, for verifying the employment and income at the time of interim and annual reexaminations.
2. HUD staff for monitoring and oversight of PHA compliance with HUD program requirements.
3. Independent Auditors hired by the PHA or HUD to perform a financial audit for use in determining the PHA's compliance with HUD program requirements, including verifying income and determining the accuracy of the rent and subsidy calculations.

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Restrictions on disclosure requirements for Independent Auditors:

- (a) May only access EIV income information within family files and only within the offices of the PHA or PHA-hired management agent;
- (b) May not transmit or transport EIV income information in any form;
- (c) May not enter EIV income information on any portable media;
- (d) Must sign non-disclosure oaths that the EIV income information will be used only for the purpose of the audit; and
- (e) May not duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

B. Official Purposes Does NOT Include:

1. Sharing the information with governmental or private entities not involved in the reexamination process specifically used for PIH rental assistance programs.

Disclosing the EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH rental assistance programs is prohibited since these entities are not a party to the computer matching agreements with the HHS and SSA. The fact that these entities may find the EIV beneficial for similar eligibility and determination purposes for other low-income housing programs or public benefits, does not permit these entities to use or view information in the EIV system that is covered by the computer matching agreements.

The computer matching agreements are governed by the Privacy Act and the Social Security Act. Specifically, sections 453(j)(7)(E)(ii) and (iv) of the Social Security Act (42 USC §653j) limit disclosure of the data matched between HUD and HHS' National Directory of New Hires (NDNH) database to PHAs, Independent Auditors, the Inspector General (IG) and Attorney General, private owners, management agents, and contract administrators of Multifamily Housing programs.

C. Penalties for Willful Disclosure or Inspection of EIV Data.

1. **Unauthorized Disclosure** – felony conviction and fine up to \$5,000 or imprisonment up to five (5) years, as well as civil damages.
2. **Unauthorized Inspection** – misdemeanor penalty of up to \$1,000 and/or one (1) year imprisonment, as well as civil damages.

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21. **Penalties for Noncompliance with Mandated EIV System Use.** PHAs may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both. It should be noted that HUD may impose a sanction on any PHA who does not have access to the EIV system or the PHA has access to the system, however, has not used the system within the last six months. To avoid sanctions or disallowed costs, PHAs should follow all formal and informal guidance provided to PHAs via webcast trainings, PIH Rental Housing Integrity Improvement Project (RHIIP) periodic electronic mailings, and any other HUD Headquarters'-generated guidance.

EIV System Tip Sheets (ETS). PHAs are required to comply with guidance provided via ETS and HUD Headquarters-sponsored EIV training, via webcast and satellite. PIH will also post ETS to the PIH RHIIP technical assistance web pages at:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm>, and send via email to all subscribers of the PIH RHIIP mailing list. ETS is designed to explain effective use of the EIV system to ensure PHAs' compliance with the third party verification requirements and reduce administrative and subsidy payment errors, so that PHAs may avoid penalties for failure to use the EIV system in its entirety.

22. **EIV System Training Information.** As a condition of initial and continued access to the EIV System, HUD and PHA staff are required to complete Annual Security Awareness training and EIV system training (initial (complete system training) and update (interim system changes) training) when offered by HUD Headquarters (HHQ). This training requirement also applies to those individuals who will not access EIV, but will view or handle printed and/or electronic EIV data. Individuals who will view and/or handle printed EIV information are required to complete only annual Security Awareness training (EIV system training is optional for these individuals). EIV training provided by third parties (other than HUD Headquarters) does not fulfill the mandatory EIV training requirement.

HHQ offers training in Washington, DC and via webcast at least once a year. EIV system users who need to complete EIV training may view EIV training webcasts at: <http://www.hud.gov/webcasts/archives/iv.cfm>. HUD offers a *Certificate of Completion* for a period of six months following the broadcast date, for those who desire confirmation of completed training.

However, it should be noted that a certificate is not required in order for an individual to be granted access to the EIV system or be certified for continued EIV system access. The most recent PIH RHIIP/EIV training was held on January 28, 2010. EIV system users may request a *Certificate of Completion* for this training through October 30, 2010.

Training information is posted at the following websites:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm> and is emailed to all subscribers of the PIH RHIIP mailing list. To subscribe to this mailing list, paste the

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following URL into your browser, enter your email address, and click OK:

<http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rental%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-I>

Instructions for requesting a *Certificate of Completion* is posted at

<http://www.hud.gov/webcasts/archives/iv.cfm> or <http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm>, and is automatically emailed to all subscribers of the PIH RHIIP mailing list.

EIV system users must complete HHQ-offered training as follows:

Training Offered	Training Must be Completed By
October 1 st – March 31 st	April 29 th
April 1 st – September 30 th	October 30 th

New employees, who begin employment after March 31st, are required to complete the training by October 30th.

New employees, who begin employment after September 30th, are required to complete the training by April 29th, of the following year.

Note: Employees must complete the training **prior** to accessing the EIV system and/or printed EIV reports.

23. **Updating of PHA Policies and Procedures.** PHAs are required to immediately implement all new and modified regulatory requirements of the *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments*.

The Department recognizes that many PHAs have already begun to modify existing policies and procedures to reflect use of EIV during all mandatory annual and interim reexams. PHAs should immediately update their policies and procedures to reflect these new regulatory provisions.

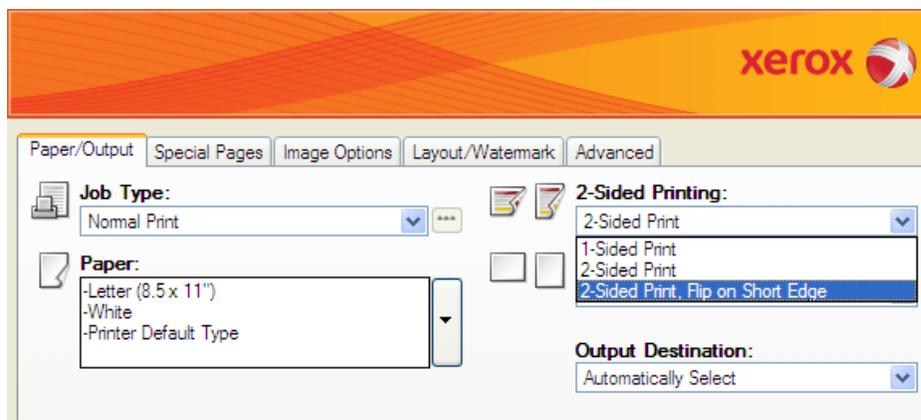
24. **Notice to Applicants and Tenants.** PIH is providing PHAs with the attached EIV system information guide that PHAs may provide to applicants and tenants of PIH rental assistance programs. PHAs are **not** required to distribute this document. However, PHAs are strongly

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encouraged to provide applicants and tenants with the *What You Should Know About EIV Guide* to educate families about EIV and inform them of how it affects their family.

There are two versions of the document: 1) with a signature block; and 2) without a signature block. HUD does not require applicants or tenants to acknowledge receipt of the document; however, PHAs may, at their discretion, require the family to acknowledge receipt of the guide. If your PHA will require families to acknowledge receipt of the guide, provide the family with a copy of the guide to take with them, and maintain a signed copy in the family file folder.

The guide is a two page document or one double-side printed document. To print the file on one page (if your printer has two-sided printing capability), select **Print Properties** when printing the document, select **2-Sided Print, Flip on Short Edge**, and then print. This document is not available for ordering from HUD. Simply click and print the guide.



Currently, the guide is only available in English, however, in the future; HUD may make this document available in other languages. As a subscriber to the PIH RHIP mailing list, you will automatically receive the guide in other languages, when they become available.

Tip: Print on color paper to add a little flare!

25. **Rental Housing Integrity Improvement Project (RHIP)/EIV Resources.** For your convenience, PIH EIV information is available on the web at the below listed URLs. Many

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of your questions can be answered by viewing information that is posted on the HUD web pages. Bookmark these pages:

Overview of Upfront Income Verification (UIV) Technique:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uiiv.cfm>

Training and Technical Assistance (including webcast training materials):

<http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm>

EIV System, Access Authorization Form, and User Manuals:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uiivsystem.cfm>

Subscribe to PIH RHIIP Mailing list:

<http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rental%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L>

PIH EIV Webcasts Archives:

<http://portal.hud.gov/portal/page/portal/HUD/webcasts/archives/iv>

Latest EIV News: <http://www.hud.gov/offices/pih/programs/ph/rhiip/uiivnewsflash.cfm>

Income Discrepancy Resolution:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/indisres.cfm>

Public Notices: <http://www.hud.gov/offices/pih/programs/ph/rhiip/pubnotices.cfm>

Report Fraud, Waste & Abuse to HUD OIG:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uiivreporting.cfm>

PIH Notices: <http://www.hud.gov/offices/pih/publications/notices/>

26. **Paperwork Reduction:** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 USC §3520) and assigned OMB control number(s) 2577-0083 and 2577-0266. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Chapter 6: Income and Subsidy Determinations

27. **For inquiries about this Notice contact:** the designated EIV Coordinator in the local HUD field office or Nicole Faison of HUD Headquarters' Office of Public and Indian Housing at (202) 475-7949, or via email at PIH.RHIIP.TA@HUD.GOV.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Attachments:

1. [What You Should Know About EIV Guide](#) (with signature block)
2. [What You Should Know About EIV Guide](#) (without signature block)

Chapter 7: VERIFICATION

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

INTRODUCTION

MRHA 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. MRHA must not pass on the cost of verification to the family.

MRHA will follow the verification guidance provided by HUD in PIH 2010-19, *Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System* and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary MRHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that MRHA or HUD determines is necessary to the administration of the program and must consent to MRHA 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 MRHA 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, MRHA 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 MRHA procedures.

Chapter 7: VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

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

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

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

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

Requirements for Acceptable Documents

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

MRHA 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, MRHA would accept the most recent report.

Print-outs from web pages are considered original documents.

MRHA 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 MRHA and must be signed in the presence of a MRHA representative or MRHA notary public.

Chapter 7: VERIFICATION

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

File Documentation

MRHA 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 MRHA 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.

MRHA will document, in the family file, the following:

- Reported family annual income

- Value of assets

- Expenses related to deductions from annual income

- Other factors influencing the adjusted income or income-based rent determination

When MRHA is unable to obtain 3rd party verification, MRHA will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c) (1); VG, p.15]

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

Up-front income verification (UIV) refers to MRHA'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 MRHA.

MRHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system (when it is available to MRHA)

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 MRHA 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 MRHA.

See Chapter 6 for MRHA's policy on the use of UIV/EIV to project annual income.

Chapter 7: VERIFICATION

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

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, and Social Security and SSI benefits for participant families. HUD requires MRHA to use the EIV system when available. The following policies will apply when MRHA 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.

Income Discrepancy Reports (IDRs)

The IDR is a tool for identifying families who may have concealed or under-reported income. Data in the IDR represents income for past reporting periods and may be between 6 months and 30 months old at the time IDRs are generated.

Families who have not concealed or under-reported income may appear on the IDR in some circumstances, such as loss of a job or addition of new family members.

MRHA will generate and review IDRs on a monthly basis. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, MRHA will begin with the largest discrepancies.

When MRHA determines that a participant appearing on the IDR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

When it appears that a family may have concealed or under-reported income, MRHA will request third-party written verification of the income in question.

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

EIV Identity Verification

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.

MRHA will identify participants whose identity verification has failed as part of the annual reexamination process.

Chapter 7: VERIFICATION

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

MRHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When MRHA determines that discrepancies exist due to MRHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Chapter 7: VERIFICATION

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

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

Reasonable Effort and Timing

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

MRHA 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.

MRHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. MRHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, MRHA will request third-party oral verification.

MRHA 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, MRHA 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 MRHA 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, MRHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, MRHA will use any information provided orally in combination with reviewing family-provided documents.

Chapter 7: VERIFICATION

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

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, MRHA will use the information from documents on a provisional basis. If MRHA 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, MRHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of MRHA'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

MRHA 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].

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

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

Certain Income, Asset and Expense Sources

MRHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, MRHA will rely upon review of documents when MRHA determines that a third party's privacy rules prohibit the source from disclosing information.

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

MRHA will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

If the family cannot provide original documents, MRHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Chapter 7: VERIFICATION

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

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

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

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

7-I.F. SELF-CERTIFICATION

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

MRHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to MRHA 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 MRHA representative or MRHA notary public.

Chapter 7: VERIFICATION
 [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

MRHA 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	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicles identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
U.S. passport	School records
Employer identification card	

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 MRHA'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 MRHA and be signed in the presence of a MRHA representative or MRHA notary public.

Legal identity will be verified on an as needed basis.

Chapter 7: VERIFICATION

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

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

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

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

- Driver's license

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

- Payroll stubs

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

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

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

MRHA 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, MRHA will grant an additional 60 calendar days to provide documentation.

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

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

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

Chapter 7: VERIFICATION

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

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, MRHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

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

7-II.D. FAMILY RELATIONSHIPS

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

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If MRHA has reasonable doubts about a marital relationship, MRHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

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

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

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

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

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

Chapter 7: VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

MRHA 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.

In accordance with the verification hierarchy described in Section 7-1.B, MRHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If MRHA cannot verify at least one of these exemption criteria, MRHA 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, MRHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Chapter 7: VERIFICATION

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

Independent Student

MRHA 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* (see Section 3-II.E)

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.

7-II.F. DOCUMENTATION OF DISABILITY

MRHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. MRHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. MRHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MRHA receives a verification document that provides such information, MRHA will not place this information in the tenant file. Under no circumstances will MRHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Chapter 7: VERIFICATION

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

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].

For family members claiming disability who receive disability benefits from the SSA, MRHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, MRHA 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), MRHA 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. Once the applicant or participant receives the benefit verification letter they will be required to provide it to MRHA.

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.

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.

Chapter 7: VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and MRHA 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.

MRHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless MRHA receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

Chapter 7: VERIFICATION

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

MRHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, MRHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

MRHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

MRHA must verify any preferences claimed by an applicant.

MRHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. MRHA will verify this preference using MRHA's termination records.

Chapter 7: VERIFICATION

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

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides MRHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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

Chapter 7: VERIFICATION

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

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

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, MRHA 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), MRHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to MRHA.

To verify the SS/SSI benefits of participants, MRHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, MRHA 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) MRHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to MRHA.

Chapter 7: VERIFICATION

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

7-III.D. ALIMONY OR CHILD SUPPORT

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

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

If payments are made through a state or local entity, MRHA 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.

Third-party verification from the person paying the support

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

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

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

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

Chapter 7: VERIFICATION

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

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. MRHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

MRHA will verify the value of assets disposed of only if:

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

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

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

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, MRHA 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.

Chapter 7: VERIFICATION

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

7-III.G. RETIREMENT ACCOUNTS

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

Before retirement, MRHA 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, MRHA 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, MRHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

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

MRHA must obtain verification for income exclusions only if, without verification, MRHA 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, MRHA will confirm that MRHA 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.

MRHA 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, MRHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

MRHA 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.

Chapter 7: VERIFICATION

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

7-III.J. 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 (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, MRHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

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), MRHA 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, MRHA will request written verification from the institution of higher education regarding the student's tuition amount.

If MRHA is unable to obtain third-party written verification of the requested information, MRHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

Chapter 7: VERIFICATION

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

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with MRHA 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.

If MRHA is required to determine the income eligibility of a student's parents, MRHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). MRHA 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 MRHA. The required information must be submitted (postmarked) within 10 business days of the date of MRHA's request or within any extended timeframe approved by MRHA.

MRHA 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.

Chapter 7: VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that MRHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. MRHA 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 Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. MRHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

Chapter 7: VERIFICATION

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

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

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

Medical expenses will be verified through:

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

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case MRHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MRHA 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, MRHA 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.

Chapter 7: VERIFICATION

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

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. MRHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for MRHA's policy on what counts as a medical expense.

Unreimbursed Expenses

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

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

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, MRHA 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

Chapter 7: VERIFICATION
[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

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

Expenses for attendant care will be verified through:

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

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

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

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party are 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, MRHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Chapter 7: VERIFICATION

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

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. *MRHA* will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

MRHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

MRHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

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

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

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

Chapter 7: VERIFICATION

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

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, MRHA 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. MRHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

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

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

Chapter 7: VERIFICATION

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

Pursuing an Eligible Activity

MRHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

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

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

Furthering Education

MRHA 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

MRHA 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.

Chapter 7: VERIFICATION

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

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

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

MRHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

MRHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with MRHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, MRHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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

EXHIBIT 7-1: Notice PIH 2010-19



U.S. Department of Housing and Urban Development

**Special Attention of:
2010 - 19 (HA)**

Notice PIH

Public Housing and Section 8 Program Administrators,

Public Housing Hub Office Directors; Public Housing Issued: May 17, 2010

Resident Management Corporations; Resident Councils;

Applicants and Participants of Public Housing, Housing

Choice Voucher, Section 8 Moderate Rehabilitation,

Expires: May 31, 2011

and Project-Based Certificate and Voucher Programs

Cross References: 24 CFR §5.233,
24 CFR §5.236, 24 CFR §908.101

SUBJECT: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

1. **Purpose:** This Notice provides Public Housing Agencies (PHA) with administrative guidance related to the mandated use of HUD's Enterprise Income Verification (EIV) system, as required in accordance with the new HUD regulation, 24 CFR §5.233, as issued in the *Final Rule: Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments*, effective January 31, 2010, as published at 74 FR 68924, on December 29, 2009.

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2. **Applicability:** This Notice applies to the following HUD-PIH rental assistance programs: Public Housing, Section 8 Moderate Rehabilitation, Project-Based Voucher, Project-Based Certificate, and Housing Choice Voucher (HCV) Programs.
3. **Background:** On December 29, 2009, HUD issued the final rule entitled *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification (EIV) System-Amendments*, which requires PHAs to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD.

Using EIV as upfront income verification (UIV) technique will be valuable in validating tenant-reported income during interim and annual reexaminations of family income; as well as streamlining the income verification process. This will result in less administrative burden in complying with third party verification requirements. Additionally, EIV will help to identify and cure inaccuracies in housing subsidy determinations, which will benefit PHAs, tenants, and taxpayers by ensuring that the level of benefits provided on behalf of families is proper and will prevent fraud and abuse within Public and Indian Housing (PIH) rental assistance programs.

4. **Effective Date:** This Notice is effective as of issuance date.
5. **The New HUD Regulation: 24 CFR 5.233.** Effective January 31, 2010, the MRHA is required to use the EIV system in its entirety. This means that MRHA must use all features of the EIV system to:
 - a. Verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR §5.236, and HUD administrative guidance; and
 - b. Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.
6. **What is the EIV System?** The EIV System is a web-based application, which provides PHAs with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). This system is available to all PHAs nationwide. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

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All PHAs are required to review the EIV Income Report of each family before or during mandatory annual and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique in many instances will reduce the need to mail or fax third party verification request forms to an income source. EIV also provides various reports to assist PHAs with the following:

- a. Identifying tenants whose reported personal identifiers do not match the SSA database;
- b. Identifying tenants who need to disclose a SSN;
- c. Identifying tenants whose alternate identification number (Alt ID) needs to be replaced with a SSN;
- d. Identifying tenants who may not have reported complete and accurate income information;
- e. Identifying tenants who have started a new job;
- f. Identifying tenants who may be receiving duplicate rental assistance;
- g. Identifying tenants who are deceased and possibly continuing to receive rental assistance;
- h. Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.

7. **How to obtain access to the EIV System.** All MRHA staff (including MRHA-hired management agents), who have a need to access the EIV system, is required to complete and submit the EIV Access Authorization Form & Rules of Behavior and User Agreement to their designated EIV Coordinator in the local HUD office.

The form is available online at:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>.

The user's access must be approved by MRHA Executive Director or designee in order for the local HUD office to process all EIV access requests. Individuals who will not directly access the EIV system, but will have access to the EIV data in printed or electronic form is also required to complete the EIV Access Authorization Form & Rules of Behavior and User Agreement and maintain on file (do not submit the form to the local HUD office).

8. **The Verification Hierarchy.** PHAs should begin with the highest level of verification techniques.

PHAs are required to access the EIV system and obtain an Income Report for each

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household. MRHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, MRHA should attempt the next lower level verification technique, as noted in the below chart.

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non-HUD system	Highest (Optional)
4	Written third Party Verification	High (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute)
3	Written Third Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by MRHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third party verification)

Note: This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Verification Technique Definitions

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

Third Party Verification Techniques

Upfront Income Verification (UIV) (Level 6/5): The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

It should be noted that the EIV system is available to all PHAs as a UIV technique. PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

Written Third Party Verification (Level 4): An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or MRHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third party source. MRHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

Current acceptable tenant-provided documents must be used for income and rent determinations.

MRHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, MRHA should project income based on the information from a traditional written third party verification form or the best available information.

Note: Documents older than 60 days (from MRHA interview/determination or request date) is acceptable for confirming effective dates of income.

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Written Third Party Verification Form (Level 3): Also, known as traditional third party verification, a standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third party verification request form. The use of acceptable tenant-provided documents, which originate from a third party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process will also streamline the income verification process.

Oral Third Party Verification (Level 2): Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. MRHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

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This verification method is commonly used in the event that the independent source does not respond to MRHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, i.e., ten (10) business days.

Non-Third Party Verification Technique

Tenant Declaration (Level 1): **The tenant submits an affidavit or notarized statement of reported income and/or expenses to MRHA. This verification method should be used as a last resort when MRHA has not been successful in obtaining information via all other verification techniques. When MRHA relies on tenant declaration, MRHA must document in the tenant file why third party verification was not available.**

Exceptions to Third Party Verification Requirements

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, MRHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, MRHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2), which states, "PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available.**"

9. **Third party verification requirements.** In accordance with 24 CFR §960.259(c)(1) and 24

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CFR §982.516(a)(2) for the Public Housing and the HCV programs, respectively, MRHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

10. How to comply with and reduce administrative burden of third party verification requirements of family annual income. MRHA can comply with and reduce administrative burden of third party verification requirements for employment, wage, unemployment compensation and social security benefits, and any other information that is verifiable using EIV by:

- a. Reviewing the EIV Income Report to confirm/validate tenant-reported income; and
- b. Printing and maintaining an EIV Income Report (or an EIV Individual Control Number (ICN) page for interim reexaminations as prescribed in Section 12 of this Notice) in the tenant file; and
- c. Obtaining current acceptable tenant-provided documentation to supplement EIV information; and
- d. Using current tenant-provided documentation and/or third party verification to calculate annual income.

Note: Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

MRHA may also reduce the administrative burden of obtaining third party verification by relying on acceptable documents that are generated by a third party, but provided by the tenant. Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

11. When MRHA is required to request written third party verification MRHA must request written third party verification under the following circumstances:

- a. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b));
- b. When MRHA requires additional information that is not available in EIV and/or the

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tenant is unable to provide MRHA with current acceptable tenant-provided documentation. Examples of additional information, includes but is not limited to:

- i. Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
- ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
- iii. Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

Note: 24 CFR §5.236(a), prohibits PHAs from taking adverse action based solely on EIV information.

12. Type of file documentation required to demonstrate MRHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)).

A. For each new admission (form HUD-50058 action type 1), MRHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

B. For each historical adjustment (form HUD-50058 action type 14), MRHA is required to do the following:

- i. Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- ii. Print and maintain a copy of the EIV Income Report in the tenant file; and
- iii. Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

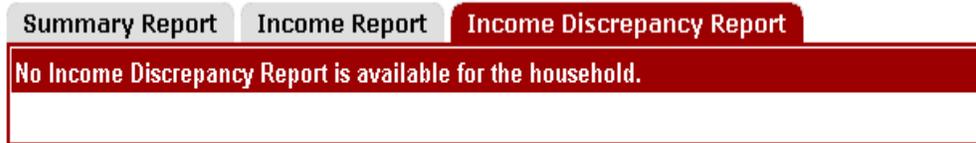
C. For each interim reexamination (form HUD-50058 action type 3) of family income and composition, MRHA is required to have the following documentation in the tenant file:

- i. **ICN Page** when there is **no** household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

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(PHAs have the discretion to print the EIV Income report, however, only the ICN page is required.) See sample screen shot below.



Note: The ICN Page is available from the Summary Report tab. See sample Screen shot below:

Income Information >> [By Head of Household](#) >> Summary Report

[Print-All](#)

Summary Report	Certification Page	Income Report	Income Discrepancy Report			
Head of Household Identifiers						
Name:	MIKILA					
Social Security Number:	***-**-****					
Date of Birth (mm/dd/yyyy):	XX/XX/1989					
Program Type:	Sec. 8 Vouchers					
Project:						
Unit Address:						
Participant Code:						
Annual Reexamination Date:	05/01/2010					
Tenant Data from Form 50058 as of:	10/20/2009					
Most Recent Type of Action:	3-Interim Reexamination					
Effective Date:	10/01/2009					
Household Members						
Member SSN	Member First Name	Member Last Name	Date of Birth	Age	Relationship	Identity Verification Status
-**-*	MIKILA		XX/XX/1989	20	Head	Verified
-**-*	MALAYA		XX/XX/2009		Other youth under 18	Verified
The month and day values in the Date of Birth field have been masked for security reasons.						
<input type="button" value="Provide ICN"/>				← Click here to generate printer-friendly ICN page		
Confidential Privacy Act Data. Civil and Criminal penalties apply.						
Report Generated By - H18XXX NICOLE X FAISON						

- ii. **EIV Income Report** when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. See sample screen shot below.

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Summary Report	Income Report	Income Discrepancy Report
Head of Household Information		
Name:	DEBRA [REDACTED]	
Social Security Number:	[REDACTED]	
Program Type:	Public Housing	
Project:	[REDACTED]	
Effective Date of Action:	03/10/2009	
Annual Reexamination Date:	02/01/2010	
Projected Annual Wages and Benefits from Form HUD-50058:	\$8,328.00	
Period Of Income for Discrepancy Analysis	12/10/2007 - 12/09/2008	
Discrepancy Analysis	Actuals	Annualized Last Quarter
Reported Annual Wages and Benefits from EIV Data:	\$24,919.06	\$26,131.00
Amount of Annual Income Discrepancy:	(\$16,591.06)	(\$17,803.00)
Amount of Monthly Income Discrepancy:	(\$1,382.59)	(\$1,483.58)
Percentage of Income Discrepancy:	(66.58%)	(68.13%)
Note: Negative numbers represent potential under reporting of income. Please discuss this income discrepancy with the tenant. Positive numbers represent potential decrease in tenant income.		
Confidential Privacy Act Data. Civil and Criminal penalties apply to misuse of this data. Report Generated By: H18XXX NICOLE X FAISON		

- D.** For each annual reexamination of family income and composition, MRHA is required to have the following documentation in the tenant file:
- i. No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and *if necessary* (as determined by MRHA), traditional third party verification form(s). See examples 1 and 3 below.
 - ii. Disputed EIV Information:** EIV Income report, current acceptable tenant-provided documentation, and/or traditional third party verification form(s) for disputed information. See example 2 below.
 - iii. Tenant-reported income not verifiable through EIV system:** Current tenant-provided documents, and *if necessary* (as determined by MRHA), traditional third party verification form(s). See example 3 below.

Example 1: No Disputed EIV Information & Tenant Provided Documents

You are conducting an annual reexam with tenant, Mary Jones. Ms. Jones reports that she is employed at the ABC Box Company. You pull up the EIV income report for the

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Jones family, which shows quarterly wages from the ABC Box Company for the full year of 2008, and the first two quarters of 2009. Last year's (2009) annual reexam reflects wages from the same employer. There is no other income information on the report.

MRHA may streamline the income verification process by requesting Ms. Jones provide current pay stubs dated within the last 60 days of the interview or MRHA request date. MRHA must obtain a minimum of two current and consecutive pay stubs from Ms. Jones. Since there is no disparity between tenant-reported and EIV-reported income, MRHA may obtain original and current tenant-provided pay stubs to calculate annual income.

MRHA may **not** use quarterly EIV wage (or unemployment benefit) information to calculate annual income since this information is at least six months old and more current income information (from pay stubs) is available.

Example 2: Disputed EIV Information & No Tenant-Provided Documents

You are conducting an annual reexam with tenant, Bob Miller. Mr. Miller reports that his only source of income is monetary support from his sister, Betty Miller. You pull up the EIV income report for the Miller family, which shows quarterly wages from the Home Depot for the full year of 2008, and the first two quarters of 2009. There is no other income information on the EIV report. Last year's (2009) annual reexam reflects no wage information and only source of income is other non-wage income (monetary support from family member).

You inform Mr. Miller that the EIV system shows wages from the Home Depot and ask him to provide you with current pay stubs. Mr. Miller states that he does not work there and has no pay stubs.

Because Mr. Miller disputes the EIV-reported income and is unable to provide documents to support his dispute, MRHA **must** request written third party verification from Home Depot. You mail a third party verification request form to the address listed for Home Depot.

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A few days later, you receive the third party verification request form back from Home Depot, which indicates that Mr. Miller has been employed there since January 5, 2008, and a payroll summary report, showing Mr. Miller's bi-weekly gross and net pay since January 2008. Since the disputed EIV information has been confirmed to be correct by the independent third party source (Home Depot), MRHA will use the income information from the payroll summary report to calculate annual income. MRHA would also calculate the retroactive rent (using the information provided by Home Depot) since Mr. Miller failed to disclose his employment at the 2008 and 2009, annual reexams. MRHA would also inform Mr. Miller of this retroactive rent and take action according to MRHA-established policies.

Example 3: Tenant Unreported Income, Income not Verifiable through EIV & Tenant- Provided Documents

You are conducting an annual reexam with tenant, Sharon Duvet. Ms. Duvet reports that her only source of income is child support and provides you with four current and consecutive child support pay stubs. You pull up the EIV Income Report for the Duvet family, which shows: hire date at the District Police Department effective January 9, 2005; quarterly wages from the District Police Department for the full years of 2005, 2006, 2007, and 2008, and the first two quarters of 2009. There is no other income information on the EIV Income Report. Last year's (2009) annual reexam reflects income from only child support. You inform Ms. Duvet that the EIV system is showing wages from the District Police Department and you ask her to provide you with current pay stubs. Ms. Duvet admits that she has been working at the District Police Department and indicates that she can provide you with current pay stubs. You inform Ms. Duvet that you will also have to calculate her retroactive rent for the previous years in which she did not disclose her employment. You go over the EIV-reported wages with Ms. Duvet and she indicates that she does not dispute the information.

Since Ms. Duvet does not dispute the EIV-reported information, MRHA may use the tenant provided documents to calculate income and rent for the 2010 annual reexam, and use the EIV-reported earnings for years 2005 through 2008, to calculate the retroactive rent Ms. Duvet will owe. MRHA should require Ms. Duvet to provide her last pay stub from 2009, or her 2009 W- 2, to calculate the retroactive rent for 2009. MRHA will use the tenant-provided child support pay stubs (child support income is not available in EIV) to calculate annual income from this source.

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13. **What if the tenant does not provide MRHA with requested information?** If the tenant does not provide the requested information, MRHA may mail or fax a third party verification request form to the third party source. MRHA is **required** to request third party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. However, MRHA should **also** remind the tenant that s/he is required to supply any information requested by MRHA for use in a regularly scheduled annual or interim reexamination of family income and composition.

MRHA may **determine** that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner (as prescribed by MRHA).

14. **How to use EIV to reduce administrative and subsidy payment errors.** EIV has the ability to identify other potential issues which may impact a family's level of assistance. EIV contains stand-alone reports, which a PHA may generate at any time (i.e. Deceased Tenants Report, New Hires Report, Multiple Subsidy Report, Identity Verification Report, Income Discrepancy Report, Debts Owed to PHAs & Termination Report, and Immigration Report). However, it should be noted that the information from these stand-alone reports are contained in the Income Report for each household. PHAs are required to address any and all potential issues at the time of the annual or interim reexam, as conveyed in the Income Report.

PHAs may use the stand-alone reports to monitor staff's progress in reducing the following administrative and subsidy payment errors by using the listed reports:

- a. Incorrect/invalid SSNs/name/date of birth – Identity Verification Report
- b. Follow-up with families who need to disclose a SSN – Immigration Report
- c. Duplicate rental assistance – Multiple Subsidy Report
- d. Unreported increase in income – Income discrepancy Report
- e. Improper payments on behalf of deceased tenants – Deceased Tenants Report
- f. Unreported new employment (PHAs with interim increase policy) – New Hires Report
- g. Adverse Termination/Outstanding Debt to MRHA – Debts Owed to PHAs & Termination Search

In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are **required** to monitor the following EIV reports on a **monthly basis**:

1. Deceased Tenants Report
2. Identity Verification Report
3. Immigration Report

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In order to ensure PHAs are aware of potential subsidy payment errors, PHAs are **required** to monitor the following EIV reports on a **quarterly basis**:

1. Income Discrepancy Report
 2. Multiple Subsidy Report
 3. New Hires Report (if your agency has an interim increase policy)
15. **How to use the EIV Income Report as a third party source to verify tenant employment and income information.** The EIV Income Report provides a variety of information about each household member of the family. The report contains the following information for each household member:
- a. Personal identifiers: name, date of birth, and SSN
 - b. Identity verification status (pending, verified, deceased, or failed)
 - c. Employment information
 1. New Hire Information (W-4)
 - i. Date hired
 - ii. Employer name
 2. Employer name, address, and employer identification number of current and past employers
 3. Quarterly earnings
 - d. Quarterly unemployment compensation
 - e. Social Security benefit information
 1. Social Security (SS) benefits
 - i. Payment status code
 - ii. Date of current entitlement
 - iii. Current net monthly benefit amount (if payable)
 - iv. Gross monthly benefit history (last 8 changes in benefit amount)
 - v. Lump sum payment amount and date
 - vi. Payee name and address
 2. Dual Entitlement (Social Security benefits under another person's SSN)
 - i. Claim Number (the other person's SSN)
 - ii. Payment status code
 - iii. Date of current entitlement
 - iv. Current net monthly benefit amount (if payable)
 - v. Gross monthly benefit history (last 8 changes in benefit amount)
 - vi. Payee name and address
 3. Supplemental Security Income (SSI)
 - i. Payment status code
 - ii. Alien indicator
 - iii. Current net monthly benefit amount
 - iv. Current monthly state supplement benefit amount (if available)

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- v. Gross monthly benefit history (last 8 changes in benefit amount)
- vi. Payee name and address
- 4. Medicare data
 - i. Payee name and address
 - ii. Monthly hospital insurance premium amount, buy-in status, and buy-in start and end dates
 - iii. Monthly supplemental medical insurance premium amount, buy-in status, and buy-in start and end dates
- f. Disability status and onset date
- g. Identity verification status
- h. Indicator of possible multiple rental subsidy
- i. Indicator of debt and/or termination information from another PHA (effective September 2010)

All EIV Income Reports contain the date the report was generated and by whom; and the date EIV received each type of information.

To minimize tenant underreporting of income, PHAs are required to obtain an EIV Income Report for each family any time MRHA conducts an annual or interim reexamination of family income and composition.

In accordance with 24 CFR §5.236(b) (2)(3), PHAs are required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, MRHA is required to take the following actions:

1. Discuss the income discrepancy with the tenant; and
2. Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and
3. In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, MRHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
4. If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively*; and
5. Take any other appropriate action as directed by HUD or MRHA's administrative policies.

*MRHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

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Note: A substantial difference is defined as an amount equal to or greater **than \$2,400, annually.**

The tenant must be provided an opportunity to contest MRHA's determination of tenant rent underpayment. HUD regulations require PHAs to promptly notify tenants in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with MRHA's established grievance procedures, as required by HUD. MRHA may not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, MRHA is required to obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, MRHA may reject any tenant-provided documentation, if MRHA deems the documentation unacceptable. MRHA may reject documentation provided by the tenant for only the following HUD-approved reasons:

1. The document is not an original; or
2. The original document has been altered, mutilated, or is not legible; or
3. The document appears to be a forged document (i.e. does not appear to be authentic).

MRHA should explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that MRHA deems necessary to complete the income determination process, MRHA is required to submit a traditional third party verification form to the third party source for completion and submission to MRHA.

If the third party source does not respond to MRHA's request for information, MRHA is required to document the tenant file of its attempt to obtain third party verification and that no response to the third party verification request was received.

MRHA should then pursue lower level verifications in accordance with the verification hierarchy listed in section 8 of this notice.

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

16. **Tenant Repayment Agreement.** Tenants are required to reimburse MRHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse MRHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, MRHA **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any MRHA-sponsored amnesty or debt forgiveness programs.

All repayment agreements must be in writing, dated, signed by both the tenant and MRHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

- a. Reference to the paragraphs in the Public Housing lease or Section 8 information packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- b. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to MRHA.
- c. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- d. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHAs are required to determine retroactive rent amount as far back as the PHA has documentation of family reported income. For example, if MRHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, MRHA is only able determine retroactive rent for the three years for which documentation is available.

The monthly retroactive rent payment plus the amount of rent the tenant pays at the time the repayment agreement is executed should be affordable and not exceed 40 percent of the family's monthly adjusted income. However, PHAs have the discretion to establish thresholds and policies for repayment agreements in addition to HUD required procedures.

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Example:

- Family's monthly adjusted income is \$1,230.
- Family's monthly rent payment is \$369 (30% of the family's monthly adjusted income).
- 40% of the family's monthly adjusted income is \$492.
- The monthly payment for the repayment agreement should not exceed \$123 per month (\$369 monthly rent + \$123 repayment = \$492, 40% of the family's monthly adjusted income.)

Repayment Time Period. The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Example: The tenant agrees to repay \$1,000, by making a monthly payment of \$25 for 40 months.

Repayment Options. Tenants have the option to repay the retroactive rent balance as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above
 - a. For example, a tenant may owe \$1,000, make a lump sum payment of \$300 and enter into a repayment agreement for the remaining balance of \$700.

17. How long should MRHA maintain EIV printouts in a tenant file? MRHA's record retention policy will determine the length of time MRHA should maintain EIV printouts in a tenant file. PHAs are authorized to maintain the EIV Income Report in the tenant file for the duration of tenancy and no longer than three years from the end of participation (EOP) date. In accordance with revised regulation, 24 CFR §908.101, PHAs are required to maintain at a minimum, the last three years of the form HUD-50058, and supporting documentation for all annual and interim reexaminations of family income. All records are to be maintained for a period of at least three years from the effective date of the action.

18. Disclosure of an Individual's EIV Information. The Federal Privacy Act (5 USC §552a, as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information.

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However, MRHA is not prohibited from discussing with the head of household (HOH) and showing the HOH how the household's income and rent were determined based on the total family income reported and verified.

EIV information and any other information obtained by MRHA for the purpose of determining eligibility and level of assistance for a PIH rental assistance program may not be disclosed to third parties for any reason (even for similar verifications under other programs, such as eligibility for low income housing tax credit units, other federal or state assistance programs), unless the tenant has authorized such disclosure in writing.

19. What to do if the EIV Information is incorrect.

Sometimes the source or originator of EIV information may make an error when submitting or reporting information about tenants. HUD cannot correct data in the EIV system. Only the originator of the data can correct the information. When the originator corrects the data, HUD will obtain the updated information with its next computer matching process. Below are the procedures tenants and PHAs should follow regarding incorrect EIV information.

Employment and wage information reported in EIV originates from the employer. The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.

If the tenant disputes this information, s/he should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.

The tenant should provide MRHA with this written correspondence so that it may be maintained in the tenant file. If employer resolution is not possible, the tenant should contact the local SWA for assistance.

Unemployment benefit information reported in EIV originates from the local SWA. If the tenant disputes this information, s/he should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information. The tenant should provide MRHA with this written correspondence so that it may be maintained in the tenant file.

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SS and SSI benefit information reported in EIV originates from the SSA. If the tenant disputes this information, s/he should contact the SSA at (800) 772-1213, or visit the local SSA office. SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.

Note: The tenant may also provide MRHA with third party documents which are in the tenant's possession to support their dispute of EIV information. MRHA, with the tenant's consent, is required to submit a third party verification form to third party sources for completion and submission to MRHA, when the tenant disputes EIV information and is unable to provide documentation to validate the disputed information. The tenant's failure to sign the consent form is grounds for termination of tenancy and/or assistance in accordance with 24 CFR §5.232.

Debts owed to PHAs and termination information reported in EIV originates from MRHA. If a current or former tenant disputes this information, s/he should contact MRHA (who reported the information) directly in writing to dispute this information and provide any documentation that supports the dispute. If MRHA determines that the disputed information is incorrect, MRHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the PIH program.

Identity Theft. Seemingly incorrect information in EIV may be a sign of identity theft. Sometimes someone else may use an individual's SSN, either on purpose or by accident. SSA does not require an individual to report a lost or stolen SSN card, and reporting a lost or stolen SSN card to SSA will not prevent the misuse of an individual's SSN. However, a person using an individual's SSN can get other personal information about that individual and apply for credit in that individual's name. So, if the tenant suspects someone is using his/her SSN, s/he should check their Social Security records to ensure their records are correct (call SSA at (800) 772-1213); file an identity theft complaint with the local police department and/or Federal Trade Commission (call FTC at (877) 438-4338, or visit their website at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>); and s/he should also monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian). The tenant should provide MRHA written documentation of filed identity theft complaint. (Refer back to paragraph on Employment and wage information regarding disputed EIV information related to identity theft).

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Tenants may request their credit report and place a fraud alert on their credit report with the three national credit reporting agencies at: www.annualcreditreport.com or by contacting the credit reporting agency directly. Each agency's contact information is listed below.

National Credit Reporting Agencies Contact Information

Equifax Credit Information Services, Inc.
P.O. Box 740241
Atlanta, GA 30374

Website: www.equifax.com

Telephone: (800) 685-1111

Experian

P.O. Box 2104

Allen, TX 75013

Website: www.experian.com

Telephone (888) 397-3742

TransUnion

P.O. Box 6790

Fullerton, CA 92834

Website: www.transunion.com

Telephone: (800) 680-7289 or (800) 888-4213

20. **Security of EIV Data.** The data in EIV contains personal information on individual tenants which is protected under the Federal Privacy Act. The information in EIV may only be used for limited official purposes, as noted below.

A. Official Purposes Include:

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1. PHAs, in connection with the administration of PIH programs, for verifying the employment and income at the time of interim and annual reexaminations.
2. HUD staff for monitoring and oversight of PHA compliance with HUD program requirements.
3. Independent Auditors hired by MRHA or HUD to perform a financial audit for use in determining PHA's compliance with HUD program requirements, including verifying income and determining the accuracy of the rent and subsidy calculations.

Restrictions on disclosure requirements for Independent Auditors:

- (a) May only access EIV income information within family files and only within the offices of PHA or MRHA-hired management/compliance agent;
- (b) May not transmit or transport EIV income information in any form;
- (c) May not enter EIV income information on any portable media;
- (d) Must sign non-disclosure oaths that the EIV income information will be used only for the purpose of the audit; and
- (e) May not duplicate EIV income information or re-disclose EIV income information to any user not authorized by Section 435(j)(7) of the Social Security Act to have access to the EIV income data.

B. Official Purposes Does NOT Include:

1. Sharing the information with governmental or private entities not involved in the reexamination process specifically used for PIH rental assistance programs.

Disclosing the EIV information to other private or public entities for purposes other than determining eligibility and level of assistance for PIH rental assistance programs is prohibited since these entities are not a party to the computer matching agreements with the HHS and SSA. The fact that these entities may find the EIV beneficial for similar eligibility and determination purposes for other low-income housing programs or public benefits, does not permit these entities to use or view information in the EIV system that is covered by the computer matching agreements.

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The computer matching agreements are governed by the Privacy Act and the Social Security Act. Specifically, sections 453(j)(7)(E)(ii) and (iv) of the Social Security Act (42 USC §653j) limit disclosure of the data matched between HUD and HHS' National Directory of New Hires (NDNH) database to PHAs, Independent Auditors, the Inspector General (IG) and Attorney General, private owners, management agents, and contract administrators of Multifamily Housing programs.

C. Penalties for Willful Disclosure or Inspection of EIV Data.

1. **Unauthorized Disclosure** – felony conviction and fine up to \$5,000 or imprisonment up to five (5) years, as well as civil damages.
2. **Unauthorized Inspection** – misdemeanor penalty of up to \$1,000 and/or one (1) year imprisonment, as well as civil damages.

21. **Penalties for Noncompliance with Mandated EIV System Use.** PHAs may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both. It should be noted that HUD may impose a sanction on any PHA who does not have access to the EIV system or PHA that has access to the system, however, has not used the system within the last six months. To avoid sanctions or disallowed costs, PHAs should follow all formal and informal guidance provided to PHAs via webcast trainings, PIH Rental Housing Integrity Improvement Project (RHIIIP) periodic electronic mailings, and any other HUD Headquarters'-generated guidance.

EIV System Tip Sheets (ETS). PHAs are required to comply with guidance provided via ETS and HUD Headquarters-sponsored EIV training, via webcast and satellite. PIH will also post ETS to the PIH RHIIIP technical assistance web pages at:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm>, and send via email to all subscribers of the PIH RHIIIP mailing list. ETS is designed to explain effective use of the EIV system to ensure PHAs' compliance with the third party verification requirements and reduce administrative and subsidy payment errors, so that MRHA may avoid penalties for failure to use the EIV system in its entirety.

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22. **EIV System Training Information.** As a condition of initial and continued access to the EIV System, HUD and MRHA staff are required to complete Annual Security Awareness training and EIV system training (initial (complete system training) and update (interim system changes) training) when offered by HUD Headquarters (HHQ). This training requirement also applies to those individuals who will not access EIV, but will view or handle printed and/or electronic EIV data. Individuals who will view and/or handle printed EIV information are required to complete only annual Security Awareness training (EIV system training is optional for these individuals). EIV training provided by third parties (other than HUD Headquarters) does not fulfill the mandatory EIV training requirement.

HHQ offers training in Washington, DC and via webcast at least once a year. EIV system users who need to complete EIV training may view EIV training webcasts at: <http://www.hud.gov/webcasts/archives/iv.cfm>. HUD offers a *Certificate of Completion* for a period of six months following the broadcast date, for those who desire confirmation of completed training.

However, it should be noted that a certificate is not required in order for an individual to be granted access to the EIV system or be certified for continued EIV system access. The most recent PIH RHIIP/EIV training was held on January 28, 2010. EIV system users may request a *Certificate of Completion* for this training through October 30, 2010.

Training information is posted at the following websites:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm> and is emailed to all subscribers of the PIH RHIIP mailing list. To subscribe to this mailing list, paste the following URL into your browser, enter your email address, and click OK:
<http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rental%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L>

Instructions for requesting a *Certificate of Completion* is posted at <http://www.hud.gov/webcasts/archives/iv.cfm> or <http://www.hud.gov/offices/pih/programs/ph/rhiip/training.cfm>, and is automatically emailed to all subscribers of the PIH RHIIP mailing list.

EIV system users must complete HHQ-offered training as follows:

Training Offered	Training Must be Completed By
October 1 st – March 31 st	April 29 th

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April 1 st – September 30 th	October 30 th
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New employees, who begin employment after March 31st, are required to complete the training by October 30th.

New employees, who begin employment after September 30th, are required to complete the training by April 29th, of the following year.

Note: Employees must complete the training **prior** to accessing the EIV system and/or printed EIV reports.

23. **Updating of MRHA Policies and Procedures.** PHAs are required to immediately implement all new and modified regulatory requirements of the *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments*.

The Department recognizes that many PHAs have already begun to modify existing policies and procedures to reflect use of EIV during all mandatory annual and interim reexams. PHAs should immediately update their policies and procedures to reflect these new regulatory provisions.

24. **Notice to Applicants and Tenants.** PIH is providing PHAs with the attached EIV system information guide that PHAs may provide to applicants and tenants of PIH rental assistance programs. PHAs are **not** required to distribute this document. However, PHAs are strongly encouraged to provide applicants and tenants with the *What You Should Know About EIV Guide* to educate families about EIV and inform them of how it affects their family.

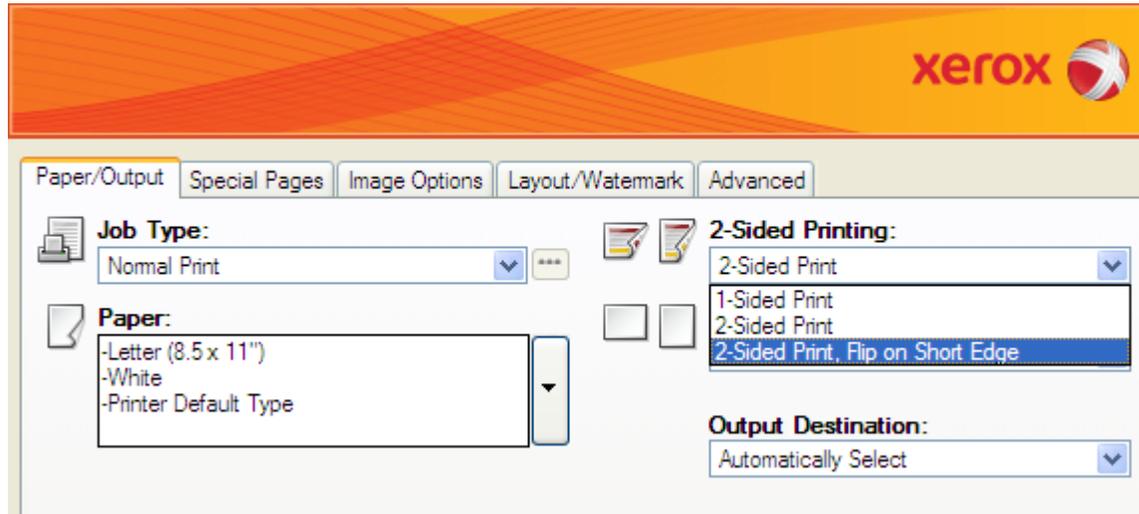
There are two versions of the document: 1) with a signature block; and 2) without a signature block. HUD does not require applicants or tenants to acknowledge receipt of the document; however, PHAs may, at their discretion, require the family to acknowledge receipt of the guide. If your PHA will require families to acknowledge receipt of the guide, provide the family with a copy of the guide to take with them, and maintain a signed copy in the family file folder.

The guide is a two page document or one double-side printed document. To print the file on one page (if your printer has two-sided printing capability), select **Print Properties** when

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printing the document, select **2-Sided Print, Flip on Short Edge**, and then print. This document is not available for ordering from HUD. Simply click and print the guide.



Currently, the guide is only available in English, however, in the future; HUD may make this document available in other languages. As a subscriber to the PIH RHIP mailing list, you will automatically receive the guide in other languages, when they become available.

Tip: Print on color paper to add a little flare!

25. **Rental Housing Integrity Improvement Project (RHIP)/EIV Resources.** For your convenience, PIH EIV information is available on the web at the below listed URLs. Many of your questions can be answered by viewing information that is posted on the HUD web pages. Bookmark these pages:

Overview of Upfront Income Verification (UIV) Technique:
<http://www.hud.gov/offices/pih/programs/ph/rhip/uiv.cfm>

Training and Technical Assistance (including webcast training materials):
<http://www.hud.gov/offices/pih/programs/ph/rhip/training.cfm>

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EIV System, Access Authorization Form, and User Manuals:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uivsystem.cfm>

Subscribe to PIH RHIIP Mailing list:

<http://www.hud.gov/subscribe/signup.cfm?listname=Public%20and%20Indian%20Housing%20Rental%20Housing%20Integrity%20Improvement%20Project&list=PIH-RHIIP-L>

PIH EIV Webcasts Archives:

<http://portal.hud.gov/portal/page/portal/HUD/webcasts/archives/iv>

Latest EIV News: <http://www.hud.gov/offices/pih/programs/ph/rhiip/uivnewsflash.cfm>

Income Discrepancy Resolution:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/indisres.cfm>

Public Notices: <http://www.hud.gov/offices/pih/programs/ph/rhiip/pubnotices.cfm>

Report Fraud, Waste & Abuse to HUD OIG:

<http://www.hud.gov/offices/pih/programs/ph/rhiip/uivreporting.cfm>

PIH Notices: <http://www.hud.gov/offices/pih/publications/notices/>

26. **Paperwork Reduction:** The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB under the Paperwork Reduction Act of 1995 (44 USC §3520) and assigned OMB control number(s) 2577-0083 and 2577-0266. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
27. **For inquiries about this Notice contact:** the designated EIV Coordinator in the local HUD field office or Nicole Faison of HUD Headquarters' Office of Public and Indian Housing at (202) 475-7949, or via email at PIH.RHIIP.TA@HUD.GOV.

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/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

Attachments:

1. [*What You Should Know About EIV Guide*](#) (with signature block)
2. [*What You Should Know About EIV Guide*](#) (without signature block)

Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits MRHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and MRHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires PHAs to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and MRHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections MRHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies MRHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires MRHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, MRHA must ensure that the unit contains the

**Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
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required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

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Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to MRHA for review.

**Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
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8-I.B. ADDITIONAL LOCAL REQUIREMENTS

MRHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if MRHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a) (4)].

Thermal Environment [HCV GB p.10-7]

MRHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

MRHA has adopted the following City of Martinsville codes:

Residential Buildings

Every dwelling shall provided with heating facilities capable of maintaining a room temperature of 65 degrees F. (18 degrees C.) in all habitable rooms, bathrooms and toilet rooms based on the outside design temperature required for the locality by the mechanical code listed in Chapter 8.

Heat Supply

Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain the room temperatures specified in aforementioned “Residential Building” “during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.), during other hours.

Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]

Clarifications of HUD Requirements

As permitted by HUD, MRHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

MRHA has adopted the following local codes concerning windows:

Operable Windows

Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.

Insect Screens

During the period from April 1 to December 1, every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

****Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans are employed.***

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be operable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

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All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look."
Vinyl base shoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Other Local Codes Adopted By MRHA

Accessory Structures

All accessory structures, including detached garages, fences and walls shall be maintained structurally sound and in good repair.

Handrails and Guards

Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

Stairs and Railings

All interior stairs and railings shall be maintained in sound condition and good repair.

General

All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the functions for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

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Water Heating Facilities

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110 degrees F. (43 degrees C.). **A gas-burning water heater shall not be located in any bathroom, bedroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air is provided.** An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

Lighting Fixtures

Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric lighting fixture.

Accumulations

Rubbish, garbage or other materials shall not be stored or allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

Smoke Detectors

In all residential occupancies, smoke detectors shall be required on every story of the dwelling unit, including basements. In dwelling units with split levels and without an intervening door between the adjacent levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Tampering

Anyone tampering or interfering with the effectiveness of a smoke detector shall be in violation of this code.

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8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires MRHA 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 MRHA 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 outside temperature is below 50 degrees Fahrenheit.
- Utilities not in service, including no running water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

If an owner fails to correct life threatening conditions as required by MRHA, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by MRHA, MRHA may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless MRHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

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8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

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**8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL
INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]**

If the MRHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, MRHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from MRHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and MRHA will take action in accordance with Section 8-II.G.

MRHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If MRHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, MRHA must issue the family a new voucher, and the family and MRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MRHA must terminate the HAP contract in accordance with its terms.

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PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

MRHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* MRHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections.* HUD requires MRHA to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of MRHA-owned Units [24 CFR 982.352(b)]

MRHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a MRHA-owned unit. A MRHA-owned unit is defined as a unit that is owned by MRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by MRHA). The independent agency must communicate the results of each inspection to the family and MRHA. The independent agency may be the unit of general local government for MRHA jurisdiction (unless MRHA is itself the unit of general local government or an agency of such government).

Inspection Costs

MRHA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of MRHA-owned units, MRHA may compensate the independent agency from ongoing administrative fee for inspections performed. MRHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352 (b)].

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Notice and Scheduling

The family must allow MRHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 4:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, MRHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits MRHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, MRHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

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8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS 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 the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). 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 [982.305(b)(2)].

MRHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Re-inspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by MRHA for good cause. MRHA will re-inspect the unit within 5 business days of the date the owner notifies MRHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any MRHA-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, MRHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. MRHA may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval for the unit if the family has not found another unit by the time the owner completes all repairs and the family continues to wish to live in the unit.

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Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

If utility service is not available for testing at the time of the initial inspection, MRHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. MRHA will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by MRHA.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, MRHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by MRHA. MRHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

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8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

If an adult family member cannot be present on the scheduled date, the family should request that MRHA reschedule the inspection. MRHA and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. MRHA may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, MRHA will automatically schedule a second inspection *and leave a "door knocker" note to inform the family of the rescheduled date*. If the family misses two scheduled inspections without MRHA approval, MRHA 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 in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

MRHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

During a special inspection, MRHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled MRHA may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a MRHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is 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.

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**8-II.F. INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP
CONTRACT**

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, MRHA 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, MRHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of MRHA's notice.

When failures that are not life threatening are identified, MRHA will send the owner and the family a written notification of the inspection results within 5 business 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. No more than 30 days will be allowed for the 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 MRHA-approved extension), the owner's HAP will be abated in accordance with MRHA policy (see 8-II.G.). 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 MRHA-approved extension, if applicable) the family's assistance will be terminated in accordance with MRHA policy (see Chapter 12).

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Extensions

For conditions that are life-threatening, MRHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, MRHA may grant an exception to the required time frames for correcting the violation, if MRHA determines that an extension is appropriate [24 CFR 982.404].

Extensions will be granted in cases where MRHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

MRHA will conduct a re-inspection immediately following the end of the corrective period, or any MRHA 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, MRHA 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 MRHA policies. If MRHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, MRHA 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 in accordance with Chapter 12.

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8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, MRHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by MRHA, HUD requires MRHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 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 responsibility.

MRHA will make all HAP abatements effective the first of the month following the expiration of MRHA specified correction period (including any extension).

MRHA will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day 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 the abatement as cause for eviction.

HAP Contract Termination

MRHA must decide how long any abatement period will continue before the HAP contract will be terminated. MRHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. MRHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

The maximum length of time that a HAP may be abated is 90 days. However, if the owner completes corrections and notifies CRHA before the termination date of the HAP contract, MRHA 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.

Reasonable notice of HAP contract termination by MRHA is 30 days.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by MRHA (and any extensions), MRHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

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PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until MRHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

MRHA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a MRHA-owned unit, MRHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A MRHA-owned unit is defined as a unit that is owned by MRHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by MRHA). The independent agency must communicate the results of the rent reasonableness determination to the family and MRHA. The independent agency may be the unit of general local government for MRHA jurisdiction (unless MRHA is itself the unit of general local government or an agency of such government).

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8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

MRHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. MRHA (or independent agency in the case of MRHA-owned units) will assist the family with the negotiations upon request. At initial occupancy MRHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term.

Subsequent requests for rent adjustments must be submitted 60 days in advance of the 1st day of the original lease signing month and must be consistent with the lease between the owner and the family. Only one owner rent adjustment will be considered in any twelve month period.

Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

MRHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires MRHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct MRHA to make a determination at any other time. MRHA may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, MRHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) MRHA determines that the initial rent reasonableness determination was in error or (2) MRHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires MRHAs to take into consideration the factors listed below when determining rent comparability. MRHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)

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- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d) (3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting MRHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give MRHA information regarding rents charged for other units on the premises.

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8-III.D. MRHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

MRHA, or a third party contractor, will collect and maintain data on market rents in MRHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

How Rents are Determined

MRHA utilizes the Tenmast Reasonable Rent Determination software which has an integral proprietary comprehensive analysis tool and scoring system using market comparable information stored in a protected and confidential database. This system analyzes and collates attributes of both units to be assisted and market comparables utilizing all HUD required characteristics. MRHA also (at intervals) uses a third party to perform a rent reasonableness study for the Agency.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

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The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one operable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

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Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by MRHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by MRHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

**Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]**

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

**Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]**

**EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS
RELATED TO HOUSING QUALITY**

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

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- (6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- (7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- (8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- (9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

**Chapter 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507]**

Chapter 9: GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for MRHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, MRHA 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 MRHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by MRHA, 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)]

Chapter 9: GENERAL LEASING POLICIES

9-I.A. TENANT SCREENING

MRHA 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)].

MRHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of MRHA's policies with regard to screening applicant families for program eligibility [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 MRHA approval of the tenancy, MRHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a) (2)]. MRHA must also inform the owner or manager of their responsibility to comply with VAWA [24 CFR 5.2007(3) (ii)].

MRHA must provide the owner with the family's current and prior address (as shown in MRHA records); and the name and address (if known to MRHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b) (1)].

MRHA is permitted, but not required, to offer the owner other information in MRHA's possession about the family's tenancy [24 CFR 982.307(b) (2)].

MRHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b) (3)].

MRHA will not screen applicants for family behavior or suitability for tenancy.

MRHA will not provide additional screening information to the owner.

Chapter 9: GENERAL LEASING POLICIES

9-I.B. 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 MRHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to MRHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA 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 MRHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless MRHA 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 that 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.

Chapter 9: GENERAL LEASING POLICIES

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed and signed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, by fax, or by email.

The family may not submit, and MRHA will not process, more than one (1) RTA at a time.

When the family submits the RTA MRHA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, MRHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. MRHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, MRHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, MRHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. MRHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, MRHA will attempt to communicate with the owner and family by phone, fax, or email. MRHA will use mail when the parties can't be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

MRHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where MRHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

Chapter 9: GENERAL LEASING POLICIES

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in MRHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

MRHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

MRHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by MRHA issuing the voucher may also be leased in the voucher program. In order for a MRHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and MRHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a MRHA-owned unit without any pressure or steering by MRHA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require; MRHA does not offer any special housing type as defined by HUD.

Chapter 9: GENERAL LEASING POLICIES

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Chapter 9: GENERAL LEASING POLICIES

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

Chapter 9: GENERAL LEASING POLICIES

9-I.E. 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; MRHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

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 added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by MRHA. 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.

MRHA does not provide a model or standard dwelling lease for owners to use in 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 owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

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Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit MRHA to approve a shorter initial lease term if certain conditions are met.

MRHA will not approve an initial lease term of less than one (1) year.

During the initial term 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 [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

MRHA 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 ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. MRHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if MRHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

The security deposit may not exceed two months of periodic rent as dictated by the Commonwealth of Virginia's Residential Landlord and Tenant Act.

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Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus MRHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

MRHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

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MRHA Review of Lease

MRHA may review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, MRHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. MRHA will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, MRHA will attempt to communicate with the owner and family by phone, fax, or email. MRHA will use mail when the parties can't be reached by phone, fax, or email.

MRHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if MRHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

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9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, MRHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, MRHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by MRHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by MRHA, 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-based paint disclosure information [24 CFR 982.305(b)].

MRHA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with MRHA, MRHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, by fax, or by email. MRHA will not accept corrections over the phone.

If MRHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. MRHA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), MRHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

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9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between MRHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, MRHA 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 MRHA has given approval for the family of the assisted tenancy, the owner and MRHA 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)].

MRHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

MRHA must make a best effort to ensure that 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.

MRHA 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 calendar days from the beginning of the lease term, MRHA 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 MRHA may not pay any housing assistance payment to the owner.

Owners who have not previously participated in the HCV program must attend a meeting with MRHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. MRHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to MRHA. MRHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and MRHA will execute the HAP contract. MRHA will not execute the HAP contract until the owner has submitted IRS form W-9. MRHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

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9-I.H. 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 MRHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, MRHA 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 be continued unless MRHA 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 tenant 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 (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify MRHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. MRHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner 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)].

Subsequent requests for rent adjustments must be submitted 60 days in advance of the 1st day of the original lease signing month and must be consistent with the lease between the owner and the family. Only one owner rent adjustment will be consider in any twelve month period.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and MRHA policies governing moves within or outside MRHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under MRHA's HCV program, whether the family moves to another unit within MRHA's jurisdiction or to a unit outside MRHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into MRHA's jurisdiction. This part also covers the special responsibilities that MRHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b) (3)]. If the family terminates the lease on notice to the owner, the family must give CRHA 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 of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, 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" [24 CFR 982.353(b)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b) (1)(ii)].
- If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give MRHA 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 judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give MRHA a copy of any owner eviction notice [24 CFR 982.551(g)].

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- MRHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b) (1)(i)].
- MRHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, MRHA must issue the family a new voucher, and the family and MRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, MRHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which MRHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

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10-I.B. 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 two conditions under which a MRHA may deny a family permission to move and two ways in which a MRHA may restrict moves by a family.

Denial of Moves

HUD regulations permit MRHA to deny a family permission to move under the following conditions:

Insufficient Funding

MRHA may deny a family permission to move if MRHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2008-43 significantly restricts the ability of MRHAs to deny permission to move under portability due to insufficient funding. The requirements found in this notice are mandatory. **For moves outside MRHA's jurisdiction under portability, no policy decisions are required.**

MRHA will deny a family permission to move on grounds that MRHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or MRHA; (b) MRHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) MRHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

Grounds for Denial or Termination of Assistance

MRHA has grounds for denying or terminating the family's assistance [24 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 believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

If MRHA has grounds for denying or terminating a family's assistance, MRHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit MRHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit MRHA to prohibit more than one elective move by a participant family during any 12-month period.

MRHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within MRHA's jurisdiction or outside it under portability.

MRHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in MRHA's jurisdiction.

MRHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, MRHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

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10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify MRHA 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 MRHA's jurisdiction under portability, the notice to MRHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2008-43]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a family's notification that it wishes to move, MRHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. MRHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

For families approved to move to a new unit within MRHA's jurisdiction, MRHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of MRHA's jurisdiction under portability, MRHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

For families approved to move to a new unit within MRHA's jurisdiction, MRHA will issue a new voucher within 10 business days of MRHA's written approval to move. A move briefing is required for these families. MRHA will follow the policies set forth in Chapter 5 on voucher term, 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 and MRHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of MRHA's jurisdiction under portability, MRHA will follow the policies set forth in Part II of this chapter.

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Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, MRHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued 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.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that 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 fees 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. MRHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

10-II.B. INITIAL CRHA 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 MRHA'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 MRHA's jurisdiction under portability. However, HUD gives MRHA 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 and grounds for denial or termination of assistance.

In determining whether or not to deny an applicant family permission to move under portability because MRHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter.

In addition, MRHA 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)].

If neither the head of household nor the spouse/co head of an applicant family had a domicile (legal residence) in MRHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in MRHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

MRHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c) (3)].

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

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 believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

MRHA will determine whether a participant family may move out of MRHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. MRHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

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 [Notice 2008-43].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, MRHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2008-43].

Participant Families

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d) (2), 24 CFR 982.355(c)(1)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

For a participant family approved to move out of its jurisdiction under portability, MRHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

MRHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require MRHA to provide information on portability to all applicant families that qualify to lease a unit outside MRHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

No formal briefing will be required for a participant family wishing to move outside MRHA's jurisdiction under portability. However, MRHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). MRHA will provide the name, address, and phone of the contact for PHA in the jurisdiction to which they wish to move. MRHA will advise the family that they will be under the RHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, MRHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

For families approved to move under portability, MRHA will issue a new voucher within 10 business days of MRHA's written approval to move.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

MRHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of MRHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

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 that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2008-43]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

Because the portability process is time-sensitive, MRHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. MRHA will pass this information along to the family. MRHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

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 I filled out [Notice PIH 2008-43]
- A copy of the family's voucher [Notice PIH 2008-43]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2008-43]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4), Notice PIH 2008-43]

In addition to these documents, MRHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all family members age 6 and over

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

A copy of the family's current EIV data

MRHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

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Initial Billing Deadline [Notice PIH 2008-43]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

If MRHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If PHA reports that the family is not yet under HAP contract, MRHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. MRHA will send the receiving PHA a written confirmation of its decision by mail.

MRHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2008-43]

If the receiving PHA is administering the family's voucher, the MRHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the MRHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. MRHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the MRHA that direct deposit is not acceptable to them.

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Annual Updates of Form HUD-50058

If the MRHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the MRHA fails to receive an updated 50058 by the family's annual reexamination date, the MRHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c) (9)]

If the MRHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the MRHA may act on those grounds at any time. (For MRHA policies on denial and termination, see Chapters 3 and 12, respectively.)

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

10-II.C. 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 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do 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 MRHA's jurisdiction under portability, the family is responsible for promptly contacting MRHA and complying with MRHA'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 MRHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2008-43].

When a portable family requests assistance from the MRHA, the MRHA must promptly inform the initial PHA whether the MRHA 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 MRHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2008-43]. (See later under "Absorbing a Portable Family" for more on this topic.)

Within 10 business days after portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the MRHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2008-43]. (For more on this topic, see later under "Denial or Termination of Assistance.")

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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 2008-43].

MRHA will require the family to attend a briefing. MRHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about MRHA's payment and subsidy standards, procedures for requesting 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 CFR 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 that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2008-43, 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's voucher program [24 CFR 982.355(c)(1)].

The PHA will rely upon the income information provided by the initial PHA and will not conduct a new reexamination of income and composition for incoming portable families.

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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)(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 2008-43].

When family ports into its jurisdiction, MRHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with MRHA's procedures. MRHA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

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 2008-43]

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 the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

MRHA generally will not extend the term of the voucher that it issues to an incoming portable family unless MRHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

MRHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

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 982.355(e)(5), Notice PIH 2008-43]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

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 only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2008-43].

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 form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2008-43]. 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.

PHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline. If sent by fax, the notice will also be sent by regular mail. If sent by e-mail, no further mailing is required.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own 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 PIH 2008-43].

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Ongoing Notification Responsibilities [Notice PIH 2008-43, HUD-52665]

Annual Reexamination. 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.

MRHA will send a copy of the updated HUD-50058 by regular mail or e-mail at the same time MRHA and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a 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 the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2008-43]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business 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 billing 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 due to the receiving PHA.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Overpayments [Notice PIH 2008-43]

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 that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that 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 2008-43.

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, 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 business days following the effective date of the termination of the billing arrangement [Notice PIH 2008-43].

If PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. MRHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Chapter 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

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) PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2008-43].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income-targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

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 advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family [Notice PIH 2008-43].

If MRHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, MRHA 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 MRHA decides to absorb a family after that, it will provide the initial PHA with no less than 15 days advance notice. Notification will be made by e-mail.

Following the absorption of an incoming portable family, 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.

CHAPTER 11: REEXAMINATIONS

INTRODUCTION

MRHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and MRHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

MRHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

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11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

MRHA must establish a policy to ensure that the annual reexamination for each family is completed within a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

MRHA will begin the annual reexamination process 90 days in advance of its scheduled effective date. Generally, MRHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as the original HAP lease date

If the family moves to a new unit, MRHA will perform a new annual reexamination and the anniversary date will change accordingly.

MRHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

MRHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of MRHA. However, MRHA should give tenants who were not provided the opportunity the option to complete Form HUD-90026 at this time [Notice PIH 2009-36].

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MRHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MRHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, MRHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without MRHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and MRHA must execute a certification attesting to the role and assistance of any such third party.

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11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to MRHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a MRHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), MRHA must issue the family a new voucher, and the family and MRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MRHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

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11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b) (5)]

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 the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with MRHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents. During the annual reexamination process, MRHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), MRHA will process a reexamination in accordance with the policies in this chapter.

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11-I.E. EFFECTIVE DATES

MRHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If MRHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MRHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If MRHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MRHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by MRHA by the date specified, and this delay prevents MRHA from completing the reexamination as scheduled.

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PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and MRHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances MRHA must process interim reexaminations to reflect those changes. HUD regulations also permit MRHA to conduct 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 [HCV GB, p. 12-10].

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. MRHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and MRHA policies describing what changes families are required to report, what changes families may choose to report, and how MRHA will process both MRHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

MRHA 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, MRHA has limited discretion in this area.

MRHA 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-awarded custody does not require MRHA approval. However, the family is required to promptly notify MRHA of the addition [24 CFR 982.551(h)(2)].

The family must inform MRHA of the birth, adoption or court-awarded custody of a child within 10 business days.

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request MRHA *and owner* approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, MRHA must conduct a reexamination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), MRHA must issue the family a new voucher, and the family and MRHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MRHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403]

Families must request MRHA *and owner* approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days, or 90 cumulative days, within a twelve month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by MRHA prior to the individual moving in the unit.

MRHA will not approve the addition of a new family or household member unless the individual meets MRHA’s eligibility criteria (see Chapter 3).

MRHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If MRHA determines an individual meets MRHA’s eligibility criteria as defined in Chapter 3, MRHA will provide written approval to the family *and the owner*. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If MRHA determines that an individual does not meet MRHA’s eligibility criteria as defined in Chapter 3, MRHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

MRHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

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Departure of a Family or Household Member

Families must promptly notify MRHA and the owner 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], MRHA and the owner also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

If a household member ceases to reside in the unit, the family must inform MRHA and the owner within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform MRHA and the owner within 10 business days.

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11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because MRHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, MRHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

MRHA-Initiated Interim Reexaminations

MRHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by MRHA. They are not scheduled because of changes reported by the family.

MRHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MRHA will conduct an interim reexamination at the start and conclusion of the second 12 month exclusion period (50 percent phase-in period).

If the family has reported zero income, MRHA will conduct an interim reexamination every **3 months** as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), MRHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, MRHA will conduct an interim reexamination.

MRHA 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.

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Family-Initiated Interim Reexaminations

MRHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that 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)(2)].

Required Reporting

HUD regulations give MRHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

MRHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, MRHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. MRHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

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]. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, MRHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, MRHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

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11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify MRHA of changes either orally or in writing. If the family provides oral notice, MRHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if MRHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, MRHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from MRHA. This time frame may be extended for good cause with MRHA approval. MRHA will accept required documentation by mail, by fax, or in person.

Effective Dates

MRHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be 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 [HCV GB, p. 12-10].

If the family share of the rent is to increase:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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 all required documentation was submitted, and all verifications have been completed. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively

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PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, MRHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in MRHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When MRHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

If MRHA'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.

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.

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Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in MRHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's first annual reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in MRHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, MRHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

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

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

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

MRHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding MRHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a) (1) (i)] (see Chapter 16).

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, MRHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, MRHA may discover errors made by MRHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a MRHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by MRHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that MRHA may consider in lieu of termination, the criteria MRHA must use when deciding what action to take, and the steps MRHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD **requires** MRHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD **permits** MRHA 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 MRHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of MRHA subsidy goes down. If the amount of HCV assistance provided by MRHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify MRHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that MRHA terminate the family's assistance at any time.

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, MRHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires MRHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

MRHA **must** terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

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, MRHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, MRHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

MRHA **must** terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

MRHA **must** terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by MRHA, 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 noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

MRHA **must** terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

MRHA **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, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, MRHA must terminate the student's assistance if, at the time of reexamination, 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 MRHA 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.

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(D)]

HUD **requires** MRHA to establish policies that permit MRHA to terminate assistance if MRHA 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 any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

MRHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

MRHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

MRHA 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, MRHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, MRHA may, on a case-by-case basis, choose not to terminate assistance.

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

HUD defines drug-related criminal activity as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

MRHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

MRHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to 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, MRHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, MRHA may, on a case-by-case basis, choose not to terminate assistance.

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Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits MRHA to terminate assistance under a number of other circumstances. It is left to the discretion of MRHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

MRHA will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

MRHA will terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related MRHA policies.

Any family member has been evicted from federally assisted housing in the last five years.

Any MRHA 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 programs.

The family has not reimbursed any PHA for amounts PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with MRHA.

A family member has engaged in or threatened violent or abusive behavior toward MRHA personnel.

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

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

In making its decision to terminate assistance, MRHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, MRHA may, on a case-by-case basis, choose not to terminate assistance.

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Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. MRHA must establish a policy on how long the 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. Absence in this context means that no member of the family is residing in the unit.

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding [24 CFR 982.454]

MRHA may terminate HAP contracts if MRHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

MRHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If MRHA determines there is a shortage of funding, prior to terminating any HAP contracts, MRHA will determine if any other actions 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, MRHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, MRHA will inform the local HUD field office. MRHA will terminate the minimum number needed in order to reduce HAP costs to a level within MRHA's annual budget authority.

If MRHA must terminate HAP contracts due to insufficient funding, MRHA will do so in accordance with the following criteria and instructions:

- 1. MRHA will develop a list of participating families in order of increasing HAP subsidy (smallest to largest HAP subsidy).**
- 2. Elderly, disabled, and Handicapped will be excluded from the list.**
- 3. MRHA will terminate HAP contracts in increasing HAP order as necessary to reduce HAP costs to a level within MRHA's annual budget authority.**

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

MRHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give MRHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions MRHA may choose to take when it has discretion, and outlines the criteria MRHA 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.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which MRHA terminates assistance depends upon individual circumstances. HUD permits MRHA 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.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, MRHA may require that any household member who participated in or was responsible for an offense no longer reside in the unit [24 CFR 982.552(c)(2)(ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon MRHA request.

Repayment of Family Debts

If a family owes amounts to MRHA, as a condition of continued assistance, MRHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from MRHA of the amount owed. See Chapter 16 for policies on repayment agreements.

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12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits MRHA to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

MRHA 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 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.

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

MRHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

MRHA will consider the following factors when making its decision to terminate assistance:

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

The effects that 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 of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking

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

MRHA 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

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

If the family includes a person with disabilities, MRHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

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

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12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [24 CFR 5.2005]

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 a 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 MRHA 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 evicting, 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 MRHA to terminate the assistance of any participant if MRHA “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.” However, situations where this might be relevant are extremely rare.

In determining whether a participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, MRHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking

- Whether the threat is a physical danger beyond a speculative threat

- Whether the threat is likely to happen within a short period of time

- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest MRHA’s determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

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Victim Documentation

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant'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, MRHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, MRHA will accept either of the following forms of documentation:

A police or court record documenting the actual or threatened abuse

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

MRHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of MRHA's written request or must request an extension within that time frame. MRHA may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any MRHA-approved extension, MRHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any MRHA-approved extension, MRHA will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

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Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives MRHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if MRHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub .L. 109-271]. This means that MRHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

MRHA will terminate assistance to a family member if MRHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, MRHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to MRHA by the victim in accordance with this section. MRHA will also consider the factors in section 12-II.D. Upon such consideration, MRHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If MRHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

MRHA Confidentiality Requirements [24 CFR 5.2007(a)(1)(v)]

All information provided to MRHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither 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.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MRHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

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12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, MRHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing as described in Chapter 16

If a criminal record is the basis of 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 982.553(d)].

When termination is initiated by MRHA, 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 MRHA, the 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time MRHA learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to MRHA (see section 12-I.C.). MRHA 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).

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Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

MRHA 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) MRHA determines that 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 for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for 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 to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with MRHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

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.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

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PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; MRHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

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, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, MRHA'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 another 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 the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

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

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- 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 that 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 of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

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12-III.C. 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 tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction 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 MRHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give MRHA a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide MRHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

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12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

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 nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the 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.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if MRHA has no other grounds for termination of assistance, MRHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

Chapter 12: TERMINATION OF ASSISTANCE AND TENANCY

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that MRHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by MRHA 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 sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or 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 damages that could be assessed against the security deposit.

- The family must allow MRHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

MRHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used are whether the reason for the eviction was through no fault of the tenant or guests.

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

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to MRHA at the same time the owner is notified.

- The family must promptly give MRHA 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.

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- The composition of the assisted family residing in the unit must be approved by MRHA. The family must promptly notify MRHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request MRHA approval to add any other family member as an occupant of the unit.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. MRHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify MRHA in writing if any family member no longer lives in the unit.
- If MRHA has given approval, a foster child or a live-in aide may reside in the unit. MRHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when MRHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by MRHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify MRHA when the family is absent from the unit.

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to MRHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that 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, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- 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. See Chapter 12 for HUD and MRHA policies related to drug-related and violent criminal activity.
- 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. See Chapter 12 for a discussion of HUD and MRHA policies related to alcohol abuse.

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- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a 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 MRHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13: OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter **is not** meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in MRHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between MRHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including MRHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

Chapter 13: OWNERS

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the MRHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for MRHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in MRHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, MRHAs must identify and recruit new owners to participate in the program.

MRHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. MRHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

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Retention

In addition to recruiting owners to participate in the HCV program, MRHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All MRHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

MRHA will provide owners with a handbook that explains the program, including HUD and MRHA policies and procedures, in easy-to-understand language.

MRHA will give special attention to helping new owners succeed through activities such as:

- Coordinating inspection and leasing activities between MRHA, the owner, and the family.

- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

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13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires MRHA to aid families in their housing search by providing the family with a list of landlords or other parties known to MRHA who may be willing to lease a unit to the family, or to help the family find a unit. Although MRHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to MRHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify MRHA. MRHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet. *The listing will also be available on the MRHA website and at the MRHA Central Office.*

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. MRHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, 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 MRHA, 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 RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the 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. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(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. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. MRHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

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MRHA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, MRHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

MRHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

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13-I.C. 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 MRHA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from MRHA), 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 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

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13-I.D. OWNER QUALIFICATIONS

MRHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where MRHA 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)]

MRHA must not approve the assisted tenancy if MRHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct MRHA 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), HCV GB p. 11-2]

MRHA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. MRHA 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 that 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; HCV GB p. 8-19]

MRHA 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 MRHA (except a participant commissioner)
- Any employee of MRHA, or any contractor, subcontractor or agent of MRHA, 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

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HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. MRHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by MRHA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, MRHA, 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 waiver is denied;
- If the case involves a hardship for a particular family, statement of 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 reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by MRHA or assistance under the HCV program for an eligible MRHA 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 MRHA, description of the nature of the investment, including disclosure/divestiture plans.

Where MRHA has requested a conflict of interest waiver, MRHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, MRHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

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Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit MRHA, at MRHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If MRHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

MRHA will refuse to approve a request for tenancy if MRHA becomes aware that 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 Section 8 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, a guest or another person under the control of any member of the household that: (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 MRHA, 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 residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

- The owner has a history or practice of renting units that fail to meet state or local housing codes; or

- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, MRHA 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, health and safety of participating families, among others. Upon consideration of such circumstances, MRHA may, on a case-by-case basis, choose to approve an owner.

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Legal Ownership of Unit

The following represents MRHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

MRHA 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 (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

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 or responsibilities under the HCV program and the HAP contract with MRHA.

The owner must cooperate with MRHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with MRHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

Chapter 13: OWNERS

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between MRHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as MRHA's obligations. Under the HAP contract, MRHA 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. See chapter 15 for a discussion of any special housing types included in MRHA's HCV program.

If MRHA has given approval for the family of the assisted tenancy, the owner and MRHA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

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13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of MRHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs 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. MRHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by MRHA is deemed received by the owner (e.g., upon mailing by MRHA or actual receipt by the owner).

MRHA considers a housing assistance payment deemed received by the owner upon bank confirmation of electronic deposit or upon mailing of a housing assistance payment check.

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Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this 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
- MRHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- MRHA 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 MRHA. 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.

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13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, MRHA must 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 the policies described in Chapter 6, and is subject to change during the term of the HAP contract. MRHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by MRHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus MRHA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and MRHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b) (4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from MRHA, the excess amount must be returned immediately. If MRHA determines that the owner is not entitled to all or a portion of the HAP, MRHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

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 MRHA, 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.

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Late HAP Payments [24 CFR 982.451(a)(5)]

MRHA 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 MRHA 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 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 late payment of the family's share of the rent.

MRHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond MRHA's control. In addition, late payment penalties are not required if MRHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

MRHA 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 terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, MRHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must inform MRHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform MRHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide MRHA 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, MRHA 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 MRHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

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13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- 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 HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or 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

If MRHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

MRHA 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 the HAP contract. MRHA may also obtain additional relief by judicial order or action.

MRHA 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. MRHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Before MRHA invokes a remedy against an owner, MRHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, MRHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, MRHA 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.

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13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- MRHA terminates the HAP contract;
- MRHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since MRHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by MRHA;
- The Annual Contributions Contract (ACC) between MRHA and HUD expires
- MRHA elects to terminate the HAP contract.

MRHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

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If MRHA terminates the HAP contract, MRHA 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 that contract [HCV Guidebook pg.15-4].

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which MRHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to MRHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

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13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of MRHA.

An owner under a HAP contract must notify MRHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by MRHA.

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 MRHA finds acceptable. The new owner must provide MRHA with a copy of the executed agreement.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

MRHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, MRHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to MRHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

- The effective date of the HAP contract assignment;

- A written agreement to comply with the terms of the HAP contract; and

- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, MRHA will terminate 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, MRHA will process the leasing in accordance with the policies in chapter 9.

Chapter 14: PROGRAM INTEGRITY

INTRODUCTION

MRHA is committed to ensuring that subsidy funds made available to MRHA are spent in accordance with HUD requirements.

This chapter covers HUD and MRHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents MRHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures MRHA must and may take when errors or program abuses are found.

Chapter 14: PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

MRHA Policy

MRHA anticipates that the vast majority of families, owners, and MRHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that MRHA's HCV program is administered effectively and according to the highest ethical and legal standards, MRHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

MRHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

MRHA 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.

MRHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key MRHA forms and form letters that request information from a family or owner.

MRHA staff will be required to review and explain the contents of all HUD- and MRHA-required forms prior to requesting family member signatures.

MRHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

MRHA will provide each MRHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

Chapter 14: PROGRAM INTEGRITY

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, MRHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires MRHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, MRHA will employ a variety of methods to detect errors and program abuse.

MRHA 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 inconsistencies and incomplete information.

MRHA 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 MRHA activities and notifies MRHA of errors and potential cases of program abuse.

MRHA will perform or have performed a random audit of at minimum 50% (68) of the HCV files annually to assess programs' integrity. (Using the RIMS form)

MRHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of MRHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

MRHA will encourage staff, program participants, and the public to report possible program abuse.

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14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When MRHA Will Investigate

MRHA 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 MRHA 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.

MRHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

MRHA may investigate possible instances of error or abuse using all available MRHA and public records. If necessary, MRHA will require HCV families to give consent to the release of additional information.

Analysis and Findings

MRHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation MRHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed MRHA, and (3) what corrective measures or penalties will be assessed.

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Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether MRHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, MRHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, MRHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

MRHA 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 MRHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

Chapter 14: PROGRAM INTEGRITY

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or 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, MRHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

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 of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse MRHA or MRHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

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14-II.B. 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 MRHA to use incorrect information provided by a third party.

Family Reimbursement to MRHA [HCV GB pp. 22-12 to 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. MRHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, MRHA will terminate the family's assistance in accordance with the policies in Chapter 12.

MRHA Reimbursement to Family [HCV GB p. 22-12]

MRHA will not reimburse the family for any underpayment of assistance when the family clearly causes the underpayment.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to MRHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by MRHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to MRHA Board of Commissioners, employees, contractors, or other MRHA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to MRHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

Chapter 14: PROGRAM INTEGRITY

MRHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family MRHA may, at its discretion, impose any of the following remedies.

- MRHA may require the family to repay excess subsidy amounts paid by MRHA, as described earlier in this section.
- MRHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- MRHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- MRHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

Chapter 14: PROGRAM INTEGRITY

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to MRHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to MRHA any excess subsidy received. MRHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, MRHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

In cases where the owner has received excess subsidy, MRHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to MRHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by MRHA

Charging a security deposit other than that specified in the family's lease

Charging the family for services that are provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to MRHA Board of Commissioners, employees, contractors, or other MRHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to MRHA

Residing in the unit with an assisted family

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Remedies and Penalties

When MRHA determines that the owner has committed program abuse, MRHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any MRHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

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14-II.D. MRHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of MRHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a MRHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in MRHA personnel policy.

MRHA-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 MRHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by MRHA staff [HCV GB. 22-12].

MRHA Reimbursement to Family or Owner

MRHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from MRHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by MRHA 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 materials to MRHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of MRHA 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

Chapter 14: PROGRAM INTEGRITY

14-II.E. CRIMINAL PROSECUTION

When MRHA determines that program abuse by an owner, family, or MRHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, MRHA 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.

Chapter 14: PROGRAM INTEGRITY

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

MRHA may retain a portion of program fraud losses that MRHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

MRHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits MRHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that MRHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of MRHA related to the collection, these costs must be deducted from the amount retained by MRHA.

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

INTRODUCTION

MRHA may permit a family to use any of the special housing types discussed in this chapter. However, MRHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that MRHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. MRHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Families will be able to utilize the following special housing types:

Single Room Occupancy (SRO)

Shared Housing

Manufactured Homes (including manufactured home space rental)

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, [24 CFR 982.601].

This chapter consists of the following parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part IV: Shared Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the 0-bedroom payment standard amount on MRHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by MRHA, a live-in aide may reside with the family to care for a person with disabilities. MRHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the prorata share of the utility allowance for the shared housing unit.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, MRHA should consider whether sanitary and food preparation areas are private or shared.

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

15-IV.C. HOUSING QUALITY STANDARDS

MRHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and MRHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

Payment Standards

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. MRHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

Utility Allowance

MRHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will

Chapter 15: SPECIAL HOUSING TYPES: [24 CFR 982 Subpart M]

not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

Space Rent

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter MRHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. MRHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.