

benefit) information to calculate annual income since this information is at least six months old and more current information (from pay stubs) is available. The AHA requires three current and consecutive pay stubs from a client to calculate anticipated annual income. For new income sources or when three pay stubs are not available, the AHA will project income based on the information from a traditional written third party verification form or the best available information.

AHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated either within the 60-day period preceding the reexamination or AHA request date. Documents older than 60 days (from the AHA interview/determination or request date) is acceptable for confirming effective dates of income.

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

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

The AHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the AHA will use the family-provided information.

If the UIV method used was EIV, the AHA will use the pay stubs supplied by the family to calculate the anticipated annual income.

Substantial Difference. If UIV/EIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the AHA will take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the AHA is required to request from the third-party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant’s underpayment of rent as a result of unreported or underreported income, retroactively; and
- Take any other appropriate action as directed by HUD.

When the AHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the AHA will review

historical income data for patterns of employment, paid benefits, and receipt of other income.

The AHA will analyze all UIV/EIV data, third party verifications, and family certifications and attempt to resolve the income discrepancy.

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

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)].

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)]. 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. Such income is not counted.

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 cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [[HCV GB, p. 5-29](#)].

Income of a Live-in Aide. Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (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 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 the AHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the AHA'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)].

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)].

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

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

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

End of participation in a training program must be reported in accordance with the AHA'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.

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. 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."

The AHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion. During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are 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 and Phase-In. During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are consecutive.

Lifetime Limitation. The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. 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 24-month eligibility period, the AHA 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).

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, the AHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable

business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

HUD regulations require the AHA 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, the AHA 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.

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 the AHA include in annual income the "interest, dividends, and other net income of

any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the AHA 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

This section begins with a discussion of general policies related to assets and then provides HUD rules and AHA policies related to each type of asset.

General Policies

Income from Assets

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

For families and participants included in MTW:

The AHA allows self-certification of combined assets of \$50,000 for participants on the program. For assets less than \$50,000, the family must provide a statement with any income earned on the assets under penalty of perjury. No other verification is required. Assets that the family does not have access to such as irrevocable trusts and 401K accounts would not count towards the \$50,000 threshold. New assets under \$50,000 do not need to be reported between triennials. This paragraph applied to families participating in the MTW program.

For families and participants not included in MTW:

The family must provide verification of all assets and the higher of the actual or imputed income will be used as discussed in the next section.

Valuing Assets

The calculation of asset income sometimes requires the AHA 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. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [~~HCV GB, p. 5-28~~].

Lump Sum Receipts

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

For families and participants not included in MTW:

When net family assets are \$5,000 or less, the AHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the AHA 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.

For families and participants included in MTW:

Actual income of assets is used if the total value of assets is less than \$50,000. If assets are in excess of \$50,000, the AHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the AHA 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 AHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

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

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

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

The AHA 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 year exceeds the gross amount received for the assets by more than \$500.

For families and participants not included in MTW:

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

For families and participants included in MTW:

See interim policies on income decreases. Requesting a decrease to remove the asset income will count towards the one interim per year cap.

Assets placed by the family in nonrevocable 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~~ regular recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The AHA may verify the value of the assets disposed of if other information available to the AHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

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

In determining the value of a checking account, the AHA will use the current balance.

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

In determining the anticipated income from an interest bearing checking or savings account, the AHA 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, the AHA will use the value of the account on the most recent investment report.

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

Equity in Real Property or Other Capital Investments

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

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

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

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

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

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

Trusts

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

Revocable Trusts

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

Nonrevocable 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, the AHA 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]~~.

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, the AHA will use the family's estimate of the value. However, the AHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal

property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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

Life Insurance

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

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)]. Also, lump sum payments from any deferred Department of Veterans Affairs disability benefits or received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.* are not counted as income [FR 07/24/2012, pp. 43347-43349].

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)]

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

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].
- Lump sums received as a result of deferred Department of Veterans Affairs disability benefits or received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al. are not counted as income (see section 6-I.J.) [FR 07/24/2012, pp. 43347-43349]
- *Guaranteed Basic Income: Amounts received under the City of Alameda's Guaranteed Basic Income Pilot Program are not included in annual income for families participating in MTW activities.*
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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.)

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]

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

Covered Families

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

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the AHA must include in annual income “imputed” welfare income. The AHA must request that the welfare agency inform the AHA 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)].

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

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

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

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

Regular Contributions or Gifts

The AHA 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)].

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

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

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 and required fees received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the AHA 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, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled.

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

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

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

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 submarginal 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) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (g) 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)
- (h) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (i) 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.)
- (j) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (k) 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)
- (l) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (m) 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)
- (n) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (o) 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)
- (p) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

- (q) Assistance from the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC)
- (r) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1009 (25 U.S.C. 1774f(b))
- (s) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or un prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501)
- (t) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs
- (u) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require AHAs 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 [AHA] 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

Generally, the AHA 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), the AHA will estimate costs based on historical data and known future costs.

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

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 cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

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

6-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 cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted ~~[HCV-GB, p. 5-31]~~.

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.”

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

Summary of Allowable Medical Expenses from IRS Publication 502:

<ul style="list-style-type: none"> • Services of medical professionals • Surgery and medical procedures that are necessary, legal, noncosmetic • Services of medical facilities • Hospitalization, long-term care, and in-home nursing services • Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor • Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails) 	<ul style="list-style-type: none"> • Substance abuse treatment programs • Psychiatric treatment • Ambulance services and some costs of transportation related to medical expenses • The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) • Cost and continuing care of necessary service animals • Medical insurance premiums or the cost of a health maintenance organization (HMO)
<ul style="list-style-type: none"> • 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 cohead is 62 or older or is a person with disabilities.

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

6-II.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, the AHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the AHA 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].

Eligible Auxiliary Apparatus

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

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, the AHA 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.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

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 ~~[HCV GB, p. 5-29]~~. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses. ~~[HCV GB, p. 5-29]~~.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

In evaluating the family's request, the AHA 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 the AHA.

Furthering Education

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

Being Gainfully Employed

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

Earned Income Limit on Child Care Expense Deduction

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

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

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

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

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The AHA 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.

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

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

Necessary and Reasonable Costs

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

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.

PART III: CALCULATING FAMILY SHARE AND AHA 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 the AHA

The AHA 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 the AHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the AHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. (For a discussion of the application of payment standards, see section 6-III.C.)

AHA Subsidy [24 CFR 982.505(b)]

The AHA 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 the AHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. The AHA will make utility reimbursements to the family.

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

In the jurisdiction of the AHA, the minimum rent is set at \$50.00. This is the minimum monthly rent used to set the HCV subsidy. Exceptions may be granted in the case of financial hardship. The following are hardships, which would be granted an exception to the minimum monthly rent:

- Delay in benefits from start of unemployment or disability; exception would be granted until benefits begin. In such cases, the AHA will counsel families as to the availability of services in the area.
- When the family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; and
- Other circumstances determined by the AHA.

If the AHA determines that there is a qualifying financial hardship, but that it is temporary, a minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day suspension period, a minimum rent is imposed retroactively to the time of suspension. The family will be offered a payment agreement for the amount of back rent owed.

If the AHA determines there is a qualifying long-term financial hardship the family will be exempt from any minimum rent requirements. If the AHA determines that there is no qualifying financial hardship exemption the minimum rent will be reinstated including the back payment for the minimum rent from the time of the suspension on terms and conditions established by the AHA.

6-III.C. HARDSHIP POLICIES FOR FAMILIES AND PARTICIPANTS INCLUDED IN MTW

Families participating in the MTW program have additional hardship policies for some MTW activities. The AHA has Hardship Policies for two of its activities: implementation of the payment standard and its alternative reexamination schedule.

HARDSHIP POLICY- PAYMENT STANDARD – FMR

This Moving to Work (MTW) activity allows the agency to change Payment Standard based on an expanded range of 80% to 150% of the Fair Market Rents (FMR) by bedroom size.

The agency applies increased payment standards during the following participant events:

1. Regular reexamination of household income and composition.
2. When an owner requests a rent increase.

A financial hardship for a decrease in payment standards are only for families where 1) the payment standard would decrease in an established unit (not at unit transfers or issuance of vouchers), 2) where the payment standard is set less than 90% of the FMR, and 3) where:

- the family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the assisted family, or reduction in or loss of earnings or other assistance; and
- the family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items.

Request a Hardship

To qualify for a hardship exemption when the payment standard is set less than 90% of the FMR, a family must submit a request for a hardship exemption in writing to hardshiprequest@alamedahsg.org. A paper request may be submitted at the Agency's offices, but it will be scanned and e-mailed to this address for tracking purposes. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay rent.

Determination of Hardship

When a family requests a financial hardship exemption, the AHA must suspend the MTW activity while the request is being processed beginning the first of the month following the family's request until the AHA has determined if the request is warranted. This means the AHA will set the family's payment standard at 90% until the determination of the hardship is determined.

During this suspension, the AHA will determine whether the financial hardship exists and whether the hardship is temporary or long-term. AHA 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.

AHA will determine the nature of the hardship within 30 calendar days of the request being received. If the AHA requests information from the family and it is not received within the 30 days after the original request was made, the AHA may deny the request and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

No Financial Hardship

If AHA determines there is no financial hardship, AHA will reinstate the reduced payment standard and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

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

Temporary Hardship

If AHA determines that a qualifying financial hardship is temporary, AHA must suspend the MTW activity for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of their portion of the rent including the calculation of the decreased payment standard and must repay the AHA the amounts suspended. This repayment, upon request of the household, will be subject to a repayment plan under the AHA's repayment agreement policies if eligible.

Long-Term Hardship

If AHA determines that the financial hardship is long-term, AHA must exempt the family from the MTW activity for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the later of the end of the qualifying hardship event or the family's second regular reexamination after the decrease in payment standards was implemented. When the financial hardship has been determined to be long-term, the family is not required to repay the additional subsidy paid under the hardship.

Grievance procedure:

The family may request a second level review of the denied hardship request by submitting a written appeal to hardshiprequest@alamedahsg.org. This appeal should contain any information the family would like to be considered during the appeal review including why the family believes the incorrect determination was made. The appeal will be reviewed by a different staff member than the one that made the original determination. Also, any staff reporting to the staff member making the original denial will be ineligible to review the appeal request. The appeal will be reviewed and responded to within 14 days of receipt of the appeal.

If the second review results in the same decision as the original request, the family may request an Informal Hearing according to the AHA's Informal Hearing procedures.

HARDSHIP POLICY- ALTERNATIVE REEXAMINATION SCHEDULE FOR HOUSEHOLDS

This Moving to Work (MTW) activity allows the agency to establish an alternative reexamination schedule including placing a limit on the number of interim reexaminations between regular reexaminations.

The AHA is limiting households to one interim per year if the household gross income has decreased 10% or more or for a family composition change. The landlord may request one interim a year for a rent increase.

For households not claiming \$0 income, the regular reexamination schedule will be once every three years. For those families claiming \$0 income, there will be a regular reexamination once a year and a zero-income certification will be required every 90 days. If income from outside the house is disclosed on this form, such as family contributions, the income will be added to the family's income for rent calculation purposes.

As prior to this activity, families under Income Averaging will not receive a decrease unless the family permanently loses the source of income that is cyclical.

If a family receives an income decrease for less than 10% or less than 6-months, the family may submit a hardship request for the first interim decrease if:

- The family's income decreases to \$0 or
- The decrease is anticipated to be longer than 30 days without a secondary source of income anticipated to increase. For example, families who lose wage income can anticipate a payment of unemployment, so the decrease would not be processed until the unemployment process is completed or
- The family faces eviction.

A financial hardship for an alternative reexamination schedule are for families that face eviction due to a secondary annual decrease of income and if one of the following has occurred:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the assisted family, or reduction in or loss of earnings or other assistance;
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items; or
- The loss of income is through no fault of the family, the decreased income results in a decrease of the rent portion greater than 10 percent, the decrease is not due to a sanction on public assistance income, and the family provides verification of eligibility or ineligibility for unemployment benefits if the reduced income is due to loss of employment

Requested a Hardship

To qualify for a hardship exemption for additional reexaminations, a family must submit a request for a hardship exemption in writing to hardshiprequest@alamedahsg.org. A paper

request may be submitted at the Agency's offices, but it will be scanned and e-mailed to this address for tracking purposes. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay rent. If the family is claiming to be facing eviction, they must submit a copy of a Termination of Tenancy, the eviction notice or a self-certification, signed under penalty of perjury, along with the hardship request. If the family submits a self-certification that the family is facing eviction, the Agency may verify that with the landlord.

Determination of Hardship

When a family requests a financial hardship exemption, the AHA must suspend the MTW activity while the request is being processed beginning the first of the month following the family's request until the AHA has determined if the request is warranted. This means the AHA will conduct a reexamination and recalculate the family's portion of rent based on current circumstances until the determination of the hardship is determined.

During this suspension, the AHA will determine whether the financial hardship exists and whether the hardship is temporary or long-term. AHA 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.

AHA will determine the nature of the hardship within 30 calendar days of the request being received. If the AHA requests information from the family and it is not received within the 30 days after the original request was made, the AHA may deny the request and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

No Financial Hardship

If AHA determines there is a minimal or no financial hardship, AHA will reinstate the family's previously calculated share and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

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

Temporary Hardship

If AHA determines that a qualifying financial hardship is temporary, AHA must suspend the MTW activity for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of their portion of the rent as previously determined by the AHA and must repay the AHA the amounts suspended. This repayment, upon request of the household, will be subject to a repayment plan under the AHA's repayment agreement policies if eligible.

Long-Term Hardship

If AHA determines that the financial hardship is long-term, AHA must exempt the family from the MTW activity for so long as the hardship continues. The exemption will apply

from the first of the month following the family's request until the later of the end of the qualifying hardship event or the family's next regularly scheduled reexamination. When the financial hardship has been determined to be long-term, the family is not required to repay the additional subsidy paid under the hardship.

Grievance procedure:

The family may request a second level review of the denied hardship request by submitting a written appeal to hardshiprequest@alamedahsg.org. This appeal should contain any information the family would like to be taken into account during the appeal review including why the family believes the incorrect determination was made. The appeal will be reviewed by a different staff member than the one that made the original determination. Also, any staff reporting to the staff member making the original denial will be ineligible to review the appeal request. The appeal will be reviewed and responded to within 14 days of receipt of the appeal.

If the second review results in the same decision as the original request, the family may request an Informal Hearing according to the AHA's Informal Hearing procedures.

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

Overview

The AHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the AHA's payment standards. The establishment and revision of the AHA's payment standard schedule are covered in Chapter 15.

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

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

If the AHA establishes an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the AHA will use the appropriate payment standard for the exception area.

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

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

Changes in Payment Standards

When the AHA 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 and approved MTW activities.

Decreases

If the payment standard decreases, the family will receive the higher (old) payment standard while the family continues to receive voucher assistance in that unit as long as the family composition does not change. If the family composition changes and the result is a reduction in subsidy size, the new payment standard will be applied at the next annual regular reexamination when the subsidy size is changed.

If the family moves, the new payment standard will be applied to the new unit.

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.

For families and participants not included in MTW:

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next regular annual reexamination ~~reexamination~~ [HCV GB Payment Standards page 16 HCV GB, p. 7-8].

For families and participants included in MTW:

Payment standard increases will be applied when owner rent increases are applied. Increases can also be requested during an interim only for family size changes. See next section for more information.

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.

For families and participants included in MTW:

A request may be made for application of a larger payment standard between regular reexaminations may be made when the family is over-housed, but the interim will count towards the one interim per year cap.

Reasonable Accommodation

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

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

Overview

An AHA-established utility allowance schedule is used in determining family share and AHA subsidy. The AHA must use the appropriate utility allowance under HUD regulations. The Utility Allowance will be the lower of 1) the utility allowance amount for the family subsidy size or 2) the utility allowance amount for the bedroom size of the assisted unit. See Chapter 5 for information on the AHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 15.

Reasonable Accommodation

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

In cases where the unit size leased exceeds the family unit size, the AHA may use the utility allowance for the size of the dwelling unit actually leased as a reasonable accommodation.

The family must request these higher allowances and provide the AHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB [Utility Allowances pg. 7, p. 18-8](#)]. The AHA will verify all information provided.

Utility Allowance Revisions

At reexamination, the AHA will use the AHA 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 ~~annual reexamination~~ regular reexamination that is effective after the allowance is adopted.

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

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

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 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 (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);

(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 and any other required fees or charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1002 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).

(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) Nonrecurrent, short-term benefits that:

¹ Text of 45 CFR 260.31 follows.

- (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.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

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 the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(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;

(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 PHAs and housing owners identifying the benefits that qualify for this exclusion.

Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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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 submarginal 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) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L-94-540, 90 Stat. 2503-04);

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

h) 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). For Section 8 programs, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);

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 Orange liability litigation, M.D.L. No. 381 (E.D.N.Y.) (Pub. L. 101-201 and 101-39);

k) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 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 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);

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

r) Any amount received under the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780 (b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);

s) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

t) Payments from any deferred Department of Veterans Affairs

disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501);

- u) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs; and
- v) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d

10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);

- w) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub.L. 107-110, 42 U.S.C. 604(h)(4));
- x) Per Capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusions from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- y) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub.L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155 (d)).

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, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives 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.

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 ~~earned 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.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

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 12-month exclusion.** During the 12-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.

(2) Second 12-month exclusion and phase-in. Upon the expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) Maximum 2-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) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(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).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who receive Section 8 tenant-based assistance (part 982 of this title).

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) Imputed welfare income.

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

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

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

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

(5) The AHA 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 AHA decision.

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

(e) AHA relation with welfare agency.

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

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

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

CHAPTER 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, 24 CFR 5.233, 24CFR 5.236]

INTRODUCTION

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

The AHA will follow the verification guidance provided by HUD in PIH Notice 2017-12 Administrative Guidance for Effective and Mandated use of the Enterprise Income Verification (EIV) System, PIH Notice 2010-19 Administrative Guidance for Effective and Mandated use of the Enterprise Income Verification (EIV) System except as provided under approved MTW activities. This chapter summarizes those requirements and provides supplementary AHA policies.

There are four parts to this chapter:

Part I: General Verification Process. Describes the general verification process including required consent to release information forms and verification methods while the other parts describe more detailed requirements related to individual factors.

Part II: Family Information

Part III: Income and Assets

Part IV: Mandatory Deductions

~~Part I of this chapter 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 the AHA.

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 the AHA or HUD determines is necessary to the administration of the program and must consent to AHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the AHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to use form HUD-9886 to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the AHA 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 AHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the AHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the AHA to use the most reliable form of verification that is available and to document the reasons when the AHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) System (not available for income verification of applicants)
- Up-front Income Verification (UIV) using non-HUD system whenever available
- Written Third Party Verification
- Written Third Party Verification Form
- Oral Third Party Verification
- Tenant Declaration

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

Requirements for Acceptable Documents

Any documents used for verification generally must be dated within the 60-day period preceding the reexamination or AHA request date. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages, e-mails and faxes are considered original documents.

The AHA 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-declarations must be made in a format acceptable to the AHA.

For families not participating in the MTW program, HUD allows the AHA to obtain certifications in cases of assets less than \$5,000 and for fixed sources of incomes. ~~The AHA has decided to conduct full reexaminations with all verifications during years divisible by 3 for families not eligible for triennial reexaminations.~~ During year one, the AHA will conduct a full reexamination and then during the next two years, AHA will obtain only self-certifications for households with assets less than \$5,000. During the same two years for these families, the AHA will evaluate if a source of income meets HUD's definition of a fixed-source income. If income is determined to be fixed, AHA will apply a 3rd party cost of living adjustment without obtaining further verification. If a family is determined eligible by the AHA for a triennial reexamination, assets will be verified during the year of the full reexamination.

For families participating in the MTW program, recertifications will be done once every three years and income must be verified. Asset income or assets over \$50,000 will be verified.

File Documentation

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

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the AHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the AHA. The Enterprise Income Verification (EIV) is a form of UIV and the AHA is required to use this system.

The AHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until the AHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the AHA.

If the family disputes the information obtained from UIV or EIV and is unable to provide acceptable documentation to support his/her dispute, AHA is required to obtain written third party verification.

Definition of Substantial Difference

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. PIH Notice 2017-12 Administrative Guidance for Effective and Mandated Use of the Enterprise

Income Verification (EIV) System defines a substantial difference as an amount equal to or greater than \$2,400, annually.

See Chapter 6 for the AHA's policy on the use of UIV to project annual income and for the AHA's threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the UIV source and the family, the AHA must take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the AHA is required to request from the third party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively; and
- Take any other appropriate action as directed by HUD.

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires the AHA to use the EIV system when available. The following policies will apply when the AHA has access to HUD's EIV system.

EIV Income Reports

The data shown on the EIV Income Report is regularly updated; however, data may be between 3 and 6 months old at the time reports are generated.

The AHA will obtain the EIV Income Report for ~~annual reexamination~~regular reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

The EIV Income Report will be compared to family-provided information as part of the ~~annual reexamination~~regular reexamination process. EIV Income Reports may be used in the calculation of annual income, as described in Chapter 6.I.C. EIV Income Reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between EIV Income Reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

EIV Income Reports will be used in interim reexaminations to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

EIV Income Reports will be retained in a way that protects the participant's right to privacy and per EIV Security requirements.

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

Income Discrepancy Report (IDR)

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.

The AHA will generate and review IDRs on a quarterly basis. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, the AHA will begin with the largest discrepancies.

When the AHA 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~~regular reexamination has been completed.

When it appears that a family may have concealed or under-reported income, the AHA will request written third party verification of the income in question.

When the AHA 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.

The AHA will identify participants whose identity verification has failed as part of the ~~annual reexamination~~regular reexamination process.

The AHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the PHA determines that discrepancies exist due to AHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

7-I.D. THIRD PARTY VERIFICATIONS

Written Third Party Verification is defined by HUD as an original or authentic document generated by a third party source dated within the 60-day period preceding the reexamination or AHA request date. Such documentation may be in the possession of the tenant or applicant. 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.

If the participant is unable to provide an acceptable Written Third Party Verification, the AHA will move onto the next form of verification.

Upon failure to obtain UIV/EIV or a Written Third Party Verification, AHA will use a standardized Written Third Party Verification form to collect information from a third party source. Oral Third Party Verification, independent verification of information by contacting the Third Party via telephone or in-person visit will be used as the final attempt to obtain third party verification.

Reasonable Effort and Timing

The AHA 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 on third party written verifications or verification forms or as independent verification when written third party verification is not received in a timely fashion.

The AHA may mail, fax, e-mail, or hand deliver written third party verification forms and will accept third party responses using any of these methods. The AHA will make a request to the participant/applicant to supply written third party verifications and give the participant/applicant 14 calendar days to respond in writing to the request. If a response has not been received by the 15th calendar day, the AHA will request verification using a written third party verification form. The AHA will send a written request for verification to each required source and give the source 14 calendar days to respond in writing. If a response has not been received by the 15th calendar day, the AHA will request third party oral verification.

The AHA 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, AHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the AHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

The AHA will document in the file how the AHA arrived at a final conclusion about the income or expense to include in its calculations.

When Third Party Information is Late

If the AHA receives third party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the AHA will conduct an interim reexamination to adjust the figures used for the ~~reexamination~~regular reexamination.

When Third Party Verification is Not Required

Certain Assets and Expenses

Applicant assets require 3rd third-party documentation; a self-declaration for most types of applicant asset income is not sufficient verification.

The AHA 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 [PIH Notice 2017-12]. AHA must document the file as to the reason(s) why third party verification was not available.

The AHA will accept a self-declaration from a family as verification of assets disposed of for less than fair market value [~~HCV GB, p. 5-28~~].

For families and participants not included in MTW:

HUD allows the AHA to obtain certifications in cases of assets less than \$5,000 and for fixed sources of incomes. During year 1, the AHA will obtain verification of all income and assets. During the next two years, AHA will obtain only self-certifications for households with assets less than \$5,000. During the same two years for these families, the AHA will evaluate if a source of income meets HUD's definition of a fixed-source income. If income is determined to be fixed, AHA will apply a 3rd-third-party cost of living adjustment without obtaining further verification. If a family is determined eligible by the AHA for a triennial reexamination, assets will be verified during the year of the full reexamination.

For families and participants included in MTW:

The AHA will allow program participants to provide self-certification under penalty of perjury of assets up to \$50,000 . No other verification for assets under \$50,000 is required. Assets are defined in 24 CFR 5.609. Assets that the family does not have access to such as irrevocable trusts and 401K accounts would not count towards this asset limit. New assets under \$50,000 do not need to be reported between triennials.

~~For assets \$5,000 and less and fixed sources of income, the AHA will not verify except every third year. Applicant assets require 3rd party documentation; a self declaration for most types of applicant asset income is not sufficient verification.~~

~~The AHA 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 [PIH Notice 2017-12]. AHA must document the file as to the reason(s) why third party verification was not available.~~

7-I.E. SELF DECLARATION

When information cannot be verified by a third party through Written Third Party Verifications, Written Third Party Verifications Forms, or Oral Third Party Verifications, family members will be required to submit self-declarations attesting to the accuracy of the information they have provided to the AHA.

The AHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-declaration must be made in a format acceptable to the AHA and must be signed by the family member whose information or status is being verified.

~~Third-party verification of all family assets is required at least every 3 years. For families and participants not included in MTW:~~

~~Staff~~ Staff shall accept a family's declaration of the amount of assets of \$5,000 and less for years not requiring a third-party verification. This declaration must also include the amount of income expected to be received from those assets. The AHA's self-certification document or online recertification, which is signed by all adult family members 18 years of age and older, can serve as the declaration. Where the family has net family assets equal to or less than \$5,000, the AHA does not need to request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets. Where the family has net family assets in excess of \$5,000, the AHA must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.

For families and participants included in MTW:

Staff shall accept a family's declaration of the amount of assets of \$50,000 and less. This declaration must also include the amount of income expected to be received from those assets. The AHA's self-certification document or online recertification, which is signed by all adult family members 18 years of age and older, can serve as the declaration. Where the family has net family assets equal to or less than \$50,000, the AHA does not need to request supporting documentation (e.g. bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets. Where the family has net family assets in excess of \$50,000, the AHA must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

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

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

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

If none of these documents can be provided and at the AHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the AHA and be signed in the presence of an AHA representative or AHA notary public.

When a member of the household becomes an adult, i.e., turns 18, the AHA will require them to furnish a photo ID as verification of legal identity at the family's next annual re-exam.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND HCV GB ELIGIBILITY AND DETERMINATION OF ASSISTANCE PG. 14, P. 5-12]

Applicants and participants (including each member of the household, and including live-in aides, foster children, and foster adults) are required to disclose his/her Social Security Administration (SSA)-assigned social security number with the exception of the following individuals:

- Individuals who do not contend to have eligible immigration status and have not been assigned a social security number.
- Existing program participants as of January 31, 2010 who have previously disclosed their social security number and HUD has determined the number valid.
- Existing program participants as of January 31, 2010, who are 62 years of age or older and had not previously disclosed a valid social security number.

For household members who meet the first exception above, a self-certification stating that no SSN has been issued is required. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

For all others, documentation of a disclosed social security number must be provided. Acceptable evidence of the social security number consists of an original social security card issued by the SSA; an original SSA document, that contains the social security number and name of the individual; or an original document issued by a federal, state, or local government agency, which contains the social security number and name of the individual.

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 and verification must be submitted. If the family reports a SSN, but cannot provide acceptable documentation of the number, the AHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The AHA will require documentation of the SSN within 30 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided for all members over the age of 6 years. For children under the age of 6, proper documentation must be provided unless the child was added within 6 months of the issuance of voucher. In that case, the family has until 90 days after initial lease-up to provide the documentation.

The AHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

-The social security numbers of household members, such as live-in aids, must be verified by HUD requirement and for the purpose of conducting criminal background checks.

When a participant requests to add a new household member, who is at least six years of age or under the age of six and has a SSA-assigned social security number, to the family, the participant must disclose the social security number and provide acceptable documentation as outlined above. The individual will not be added to the household until verification of the social security number is received.

If the household is requesting to add a minor, under six years of age and who does not have a SSA-assigned social security number, the household must disclose the SSA-assigned social security number and provide the above verification within 90 calendar days of the child being added to the household. The AHA may grant a 90-day extension to this deadline if the AHA determines that unforeseen factors outside of the control of the family delayed the submission of the documentation. The family's assistance will be terminated if the family fails to submit the verification of social security number before the AHA approved deadline.

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, the AHA 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.

Separation or Divorce

A certified copy of a divorce decree or other court record is required to document that a couple is divorced or legally separated. If no court document is available, the head of household will be required to certify that the divorce or separation has taken place.

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).

[See Chapter 12 for absences of the entire family.](#)

Foster Children and Foster Adults

Third party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

The AHA 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 claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further his or her 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, the AHA 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 was receiving assistance as of November 30, 2005 and is a person with a disability as defined in section 3(b)(3)(E) of the 1937 Act.

If the AHA cannot verify at least one of these exemption criteria, the AHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the AHA 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).

Independent Student

The AHA 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:

- Either 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 a student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E); and

Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education's definition of "independent student" in paragraphs (b), (c) or (h) adopted in section II of this notice).

7-II.F. DOCUMENTATION OF DISABILITY

The AHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The AHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The AHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the AHA receives a verification document that provides such information, the AHA will not place this information in the tenant file. Under no circumstances will the AHA 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 [24 CFR 100.202 (c)]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance
- **Family Members Receiving SSA Disability Benefits**

The AHA will attempt to obtain information about disability benefits through the HUD UIV System, EIV, when it is available. If the HUD UIV System is not available, the AHA will attempt to obtain written third party verification from the SSA through an original SSA document that confirms the current benefits provided by the family.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

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, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

Family Members Not Receiving SSA Disability Benefits

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-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 AHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The AHA 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 the AHA 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, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

AHA Verification ~~[HCV GB, pp. 5-3 and 5-7]~~

The AHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The AHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The AHA must verify any preferences claimed by an applicant.

The AHA will verify local preferences in the following manner:

—Residency:

Applicant must provide one items from Category A and one from Category B. If the applicant cannot provide one from Category A, then two documents from Category B may be accepted by staff or alternate documentation in extenuating circumstances such as homelessness:

- Category A:

- Lease
- Driver's License
- Title to property
- Proof of residency in a shelter in Alameda
- Category B:
 - 3 consecutive utility bills (including telephone, but not cell phone bill)
 - Tax return for the period of residency
 - Car registration (if the items from Category A is not a driver's license)
 - Other government documentation (e.g. Social Security benefit letter)

If at the time of application the applicant is staying in a shelter that is not located in Alameda, the AHA will consider the applicant to be a resident and give the local preference if the applicant's last permanent address was in the city of Alameda. If at the time of application the applicant is staying in a shelter located in the city of Alameda, the applicant will be given the local preference.

Member of the Military or Veteran Status:

- DD214 form to verify veteran and honorable discharge status of a family member or the spouse of a deceased veteran. Merchant Marines who served in active oceangoing service from December 7, 1941, to August 15, 1945, are considered veterans.
- U. S. military card to verify current military service.

Family:

See Section 7-II.C. Documentation of Age or Section 7-II.F. Documentation of Disability

Other Preferences:

Documentation of the family's eligibility for the preference will be required. These could include certifications, copies of correspondence relating to the preference, or items from the AHA (such as a termination of assistance letter).

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 AHA 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 all of the following:

An audited financial statement for the previous fiscal year if an audit was conducted.

A profit and loss statement for the last 12 months or the length of the business being in operation. The business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes for the preceding two years.

Bank statements for the last 12 months.

The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the AHA 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 months, the AHA will accept the family member's certified estimate of income and schedule an interim reexamination in three months. If the family member has been self-employed for three to 12 months the AHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the AHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the AHA 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 has received the benefit verification letter they will be required to provide it to the AHA.

To verify the SS/SSI benefits of participants, the AHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems or the participant disputes the information obtained from EIV, the AHA 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 participant has received the benefit verification letter they will be required to provide it to the AHA.

7-III.D. ALIMONY OR CHILD SUPPORT

The way the AHA 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 and can be obtained through a UIV system, the AHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

Copy of the latest check and/or payment stubs.

Third party verification from the person paying the support.

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

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.

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. The AHA needs to verify only those certifications that warrant documentation. ~~[HCV GB, p. 5-28].~~

The AHA will verify the value of assets disposed of only if:

The AHA 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 ~~regular annual reexamination~~ reexamination and the AHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The AHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

- Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the AHA will verify the value of this asset.

Verification requirements Bank Account Assets

The family must supply the AHA with the most recent statement from the financial institution including all pages when required to supply verification of assets (see Section 7-I.B.). The Housing Authority may also require additional statements as needed, including verification that previously reported bank account assets which are not reported at the following ~~annual~~regular re-examination have been closed.

Assets of Added Family Members

For families and participants not included in MTW:

Whenever a family member is added, AHA must obtain third-party verification of that family member's assets.

At the next ~~regular~~annual ~~reexamination~~reexamination of income following the addition of that family member, the AHA must obtain third-party verification of all family assets if the addition of that family member's assets puts the family above the \$5,000 asset threshold.

If the addition of that family member's assets does not put the family above the \$5,000 asset threshold, then the AHA is not required to obtain third-party verification of all family assets at the next ~~annual~~reexaminationregular reexamination of income following the addition of the family member. However, third-party verification of all family assets is required at least every 3 years.

For families and participants included in MTW:

Whenever a family member is added, the AHA would only verify assets of that family member if the addition caused the family's assets to be valued at \$50,000 or more.

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; and

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the AHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

Before retirement, the AHA 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 60 days from the interview or request date.

Upon retirement, the AHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the AHA will accept an original document from the entity holding the account dated no earlier than 60 days before that reflects any distributions of the account balance, any lump sums taken and any regular payments. A document older than 60 days is acceptable for confirming effective dates of income including lump sums.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The AHA must obtain verification for income exclusions only if, without verification, the AHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the AHA will confirm that AHA records verify the child's age but will not request pay stubs or send a verification request to the restaurant. If a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

The AHA will reconcile differences in amounts reported by third party verifications and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the AHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

The AHA will check UIV/EIV sources, request letters of termination of benefits from the family or current payment printouts (showing last payment and no new payments), 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. Any adult household member claiming zero income will be required to complete the AHA's Zero Income Statement form.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition and required fees, 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, the AHA 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), the AHA will request written third party verification or use written third party verification forms to verify both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, the AHA will request written verification regarding the student's tuition and required fee amount such as invoices showing reason for each charge made to student and amount of each charge. If the student is unable to provide written third party verification, the AHA will use a written third party verification form to obtain the amount of tuition and required fees.

If the AHA is unable to obtain third party written verification of the requested information, the AHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

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 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 AHA policy [24 CFR 5.612 and FR 9/21/16, p. 64932].

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 the AHA is required to determine the income eligibility of a student's parents, the AHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The AHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the AHA. The required information must be submitted (postmarked) within 14 calendar days of the date of the AHA's request or within any extended timeframe approved by the AHA.

The AHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV. VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the AHA 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. The AHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The AHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

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

(3) The AHA will provide a third party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Written third party verification such as pharmacy printouts of monthly expenses

Written 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 or receipts from the source will be used. In this case the AHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The AHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the AHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The AHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this 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 the AHA'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, the AHA will verify:

- The anticipated repayment schedule,

- The amounts paid in the past, and

- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-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

The AHA will provide a third party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third party verification, when possible

- Written 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:

Written third party verification such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

Written third party verification form of anticipated purchase costs of auxiliary apparatus

If third party is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the AHA 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.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The AHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The AHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The AHA 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.

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, the AHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The AHA 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.

Pursuing an Eligible Activity

The AHA 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

The AHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the AHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the AHA will require the family to submit to the AHA any reports provided from and to the other agency documenting the member's job seeking efforts to date. If unavailable, the AHA will send a written third party verification form to the agency requesting information of the member's job seeking efforts to date.

In the event third party verification is not available, the AHA will require the participant to record job search efforts. The AHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The AHA will ask that the family provide documentation from the academic or vocational educational institution for the person permitted to further his or her education by the child care verifying the enrollment and about the timing of classes for which the person is registered. If unavailable, the AHA will send a written third party verification form to the academic or vocational educational institution.

Gainful Employment

The AHA will seek verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

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.

The AHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The AHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The AHA 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 the AHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the AHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB ELIGIBILITY DETERMINATION AND DENIAL OF
ASSISTANCE PG. 24-25, pp. 5-9 and 5-10]**

- ~~All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the AHA.~~
- ~~All noncitizens must sign a verification consent form.~~
- ~~Additional documents are required based upon the person's status.~~
- ~~Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.~~

- ~~Form I-551 Alien Registration Receipt Card (for permanent resident aliens)~~
- ~~Form I-94 Arrival-Departure Record annotated with one of the following:~~
 - ~~“Admitted as a Refugee Pursuant to Section 207”~~
 - ~~“Section 208” or “Asylum”~~
 - ~~“Section 243(h)” or “Deportation stayed by Attorney General”~~
 - ~~“Paroled Pursuant to Section 221 (d)(5) of the USCIS”~~

- ~~Form I-94 Arrival-Departure Record with no annotation accompanied by:~~
 - ~~A final court decision granting asylum (but only if no appeal is taken);~~
 - ~~A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);~~
 - ~~A court decision granting withholding of deportation; or~~
 - ~~A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).~~

- ~~Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.~~

- ~~Form I-688B Employment Authorization Card annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.~~

- ~~A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or~~
- ~~Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*~~

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB ELIGIBILITY DETERMINATION AND DENIAL OF
ASSISTANCE PG. 24-25]**

<u>STATUS</u>	<u>DOCUMENTATION</u>
1) <u>A non-citizen claiming eligible immigration status who is 62 years of age.</u>	<p data-bbox="784 264 1419 331"><u>Note: All documentation provided must be UNEXPIRED</u></p> <p data-bbox="784 354 1419 606"><u>DECLARATION: For each family member with this status, a declaration of citizenship signed under penalty of perjury. For each adult, the declaration must be signed by the adult. For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.</u></p>

2) All other non-citizens claiming eligible immigration status.

Categories of eligible immigration status:

a) A non-citizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).⁸³

b) A non-citizen who entered the United States before 1/1/72 (or such later date as enacted by law) and:

i) Has continuously maintained residence in the U.S. since then; and

ii) Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.

a) A non-citizen who is lawfully present in the United States as a result of:

• Refugee status, including those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207); or

• The granting of asylum (which has not been terminated (section 208); or

• The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution or fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.

b) A non-citizen who is lawfully present in the United States as a result of an

DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under penalty of perjury. Adults must sign their own declarations.

AND: A verification form: For each adult, the adult must sign the form. For each child, an adult member of the family residing in the unit who is responsible for the child must sign the form. The verification form must state that evidence of eligible immigration status may be released by the PHA to HUD and the CIS without responsibility for the future use or transmission of the evidence by the recipient. The form must also notify the signer of the possible release of evidence of eligible immigration status by HUD. Such evidence shall only be released by HUD to the CIS for the purpose of establishing eligibility for financial assistance.

AND: CIS Primary Verification of eligible immigration status must be conducted by the PHA through the CIS automated SAVE system. If this method fails to verify status, or, if the verification received indicates ineligible immigration status, the PHA must request Secondary CIS Verification within 10 days by sending to the local CIS Office photocopies of CIS documents receiving (front and back) attached to Form G-845S – Document Verification Request.

AND: The PHA must request and review an original CIS document of eligible immigration status and must retain photocopies and return the original to the individual.

Acceptable Original CIS Document:

• Form I-551 “Permanent Resident Card”
• Form I-94 Arrival-Departure Record annotated with one of the

following:

“Admitted as a Refugee Pursuant to

exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).

c) A non-citizen who is lawfully present in the United States as a result of the Attorney General's' withholding deportation (section 243(h)) (threat to life or freedom).

d) A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).

e) An alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

Section 207”

“Section 208” or “Asylum”

“Section 243(h)” or “Deportation stayed by Attorney General”

“Paroled Pursuant to 9 CFR Section 221 (d)(5) of the INS”

• Form I-94 Arrival-Departure Record with no annotation accompanied by:

A final court decision granting asylum (but only if no appeal is

taken);

A letter from a DHS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a DHS district director granting asylum (application filed before 10/1/90);

A court decision granting withholding of deportation; or

A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-9 Employment Eligibility Verification annotated with:

Acceptable document from List A or,

Combination of one selection from List B and one selection from List C

• Form I-360 VAWA Self-Petition

• Form I-130 Family-Based Visa Petition

• Form I-797 Notice of Action

• A receipt issued by the DHS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or

• Other acceptable evidence. If other documents are determined by the DHS to constitute acceptable evidence of eligible immigration status, they will be announced by

<u>STATUS</u>	<u>DOCUMENTATION</u> <u>Note: All documentation provided must be UNEXPIRED</u>
	<u>notice published in the Federal Register.</u>

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 the AHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and AHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed ~~and at least biennially triennially during the term of the contract.~~ Depending on program requirements, HQS will be required annually, biennially, or triennially as discussed in this chapter.

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 AHA 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 the AHA 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 the AHA 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.

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 2010-26, Non-Discrimination and Accessibility for Persons with Disabilities
- 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

Variance to the Acceptability Criteria:

On September 1, 2021, the HUD Field Office approved the AHA for a variance to Housing Quality Standards Acceptability Criteria pursuant to 24 CFR 982.401 (a)(4) for units at 1825 Poggi Street, Alameda. The variance is to allow the elevator to be inoperable. All other performance and acceptability standards for HCV-assisted housing must meet the guidelines at 24 CFR 982.401.

Tenant Preference Items

HUD requires the AHA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the AHA must ensure that the unit contains the 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.

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.

8.I.B. ADDITIONAL LOCAL REQUIREMENTS

The AHA 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 the AHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Carbon Monoxide Detectors

State law requires all single-family homes and multi-family rental dwellings with an attached garage or a fossil fuel source to have a carbon monoxide device to be installed. HUD approval was granted and AHA will inspect for the presence of these devices during HQS inspections.

Thermal Environment [~~HCV-GB p.10-7~~]

The AHA 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.

The heating system (i.e., a working radiator, hot air register or baseboard heat) must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1. A kitchen stove with a built-in heater or portable electric room heaters are not adequate.

Clarifications of HUD Requirements

As permitted by HUD, the AHA has adopted the following specific requirements that elaborate on HUD standards.

Windows

Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be lockable and have no holes.

Floors

Any loose or warped boards or loose carpet or linoleum must be resecured to eliminate trip hazards.

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.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(A)]

HUD requires the AHA 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 AHA 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 LPgas 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 at any point between 12:01 a.m. and the actual time of inspection on the day of the inspection. If there is a weather forecast predicting temperatures to be below 50 degrees Fahrenheit at any point within 48 hours of the actual time of the inspection, the absence of a working heating system will be addressed immediately as a health and safety issue on a case-by-case basis.

- Utilities not in service, including no running hot 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

- Missing or inoperable smoke detectors

- Window bars in bedrooms with no release

- Combustible materials near the gas water heater or gas furnace.

If an owner fails to correct life threatening conditions as required by the AHA, 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 the AHA, the AHA may terminate the family's assistance. See 8-II.H.

Smoke Detectors

Inoperable smoke detectors are a serious threat to tenant safety and the AHA will treat the situation as an emergency (24 hour) fail item. If the smoke detector is not operating properly, the AHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The AHA will reinspect the unit the following day.

If the AHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the AHA will reinspect the unit the following day. The AHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. This warning will state that deliberate disconnection of the unit's smoke detector is a safety and fire hazard and is considered a violation of HQS.

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 such as items that are depreciated out over time due to losing value due to age.

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.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a PHA 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, the AHA 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 the AHA, 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 the AHA will take action in accordance with Section 8-II.G.

AHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 165.

8-I-F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the AHA determines that a unit does not meet HQS space standards because of an increase in family size or a change in family composition, the AHA will issue the family a new voucher, and the family and AHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the AHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The AHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The AHA 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.

For units being added or substituted under a project-based HAP contract, these units must pass the HQS inspection before being added or substituted under the contract.

Self-certification cannot be used on failures of an initial inspection.

- *Pre-Qualifying Initial Inspections.* For participants in the MTW program, the AHA will allow initial inspections of units to be conducted up to 90 days prior to unit lease-up. The unit must pass the HQS inspection before the effective date of the HAP Contract. Participants or landlords can request a special (interim) inspection at any time.

- *Periodic Inspections Annual (or bi-ennial) Inspections.* Under the tenant-based programs, the AHA will inspect each unit under lease at least once every ~~two or three~~ years to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's ~~annual reexamination~~ regular reexamination but also may be conducted separately. The AHA may elect to inspect more frequently ~~than bi-~~

~~annually~~—if the owner or unit has a history of failing HQS inspections. Periodic inspection schedule will be determined by program:

- Annual Inspections: Moderate Rehabilitation Single Room Occupancy Units
- Biennial Inspections: Families and participants under the Shelter Plus Care, VASH and EHV programs
- Triennial Inspections: Families and participants included in the MTW program not listed above.

Under the project-based program, the AHA can inspect a random sample of units at each property, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. If more than 20 percent of the annual sample of inspected contract units in a building fail the first annual inspection, the AHA will inspect all of the contract units in the building.

~~If the units are owned or controlled by the AHA, the independent entity will follow this policy.~~

The AHA reserves the right to inspect any units on an annual basis rather than a biennial or triennial basis ~~including by not limited to units under programs other than the HCV (Mod Rehab and Shelter Plus Care).~~

- Special Inspections. A special (interim) inspection may be requested by the AHA, owner, the family, or a third party ~~as a result of problems identified with a unit~~ between biennial inspections.

Participants and landlords can request a special inspection at any time. A special inspection can be initiated by the AHA, if it receives indications that the family's unit is not in compliance with HQS. HUD or other third parties may require special inspections for program compliance.

- Quality Control Inspections. HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors. A representative sample of both tenant-based and project-based units will be inspected.

Inspection of AHA-owned Units [24 CFR 982.352(b), Federal Register / Vol. 82, No. 134 / Friday, July 14, 2017]

The AHA has obtained the services of an independent entity to perform all HQS inspections in cases where a family is receiving assistance in an AHA-owned unit. An AHA-owned unit is defined as a unit (1) Owned by the AHA; (2) owned by an entity wholly controlled by the AHA (such as Alameda Affordable Housing Corporation); or (3) owned by a limited liability company (LLC) or limited partnership in which the AHA (or an entity wholly controlled by the AHA) holds a controlling interest in the managing member or general partner, that is owned by the AHA that administers the assistance under the consolidated ACC, including a unit owned by an entity substantially controlled by the AHA,

~~or one where the AHA has an identity of interest (e.g., Breakers at Bayport or Shinsei Gardens).~~ The independent agency must communicate the results of each inspection to the family and the AHA. The independent agency has been approved by HUD. The independent entity will provide the AHA and the San Francisco Field Office with the inspection reports.

The AHA may opt to schedule inspections to be completed at the anniversary date of the HAP contract or annually or biennially or triennially from the last ~~annual~~ inspection date.

The AHA cannot use self-certification on its own units.

Inspection Costs

The AHA will not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of AHA-owned units, the AHA will compensate the independent agency from ongoing administrative fees for inspections performed. The AHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the AHA 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 8:30 a.m. and 5:00 p.m. Inspections will be conducted on business days only, Monday through Friday. In the case of a life threatening emergency, the AHA will give as much notice as possible, given the nature of the emergency.

Attendance at inspections by owner and family.

HUD permits the AHA 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 or designated adult representative must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

Inspection Under Special Housing Types.

See Chapter 15 Part VIII for inspections of special housing types, including Shared Housing.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.405(A)]

Timing of Initial Inspections

A unit must pass HQS before the effective date of the lease and HAP Contract. To the extent practicable, the AHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 10 calendar days of submission of the Request for Tenancy Approval (RFTA). In all cases, the AHA will inspect the unit within 15 days of the submission of a request for approval of the

tenancy. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

Owners interested in offering specific unit(s) for rental to participants under the AHA's subsidy programs, may contact AHA Inspection Team requesting a pre-qualifying initial inspection at no charge. If the unit passes the pre-qualifying inspection by meeting HQS protocols, Owners must still submit a completed Request for Tenancy Approval (RFTA) for all units being leased to assisted applicants or participants. The AHA may house a family or participate who is eligible to be included under the MTW program in the unit for up to 90 days after the pre-qualifying inspection. If a family or participant who is not included in the MTW program turns in a RFTA for the unit, the unit will need to be re-inspected if the pre-qualifying inspection is more than 30 days old.

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be advised to notify the AHA when they have been corrected. The AHA will reinspect the unit within 7 calendar days of the date the owner notifies the AHA that the required corrections have been made. The owner may not use self-certification for initial inspections.

If the unit fails HQS at the time of the reinspection, the AHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The AHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

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. Those utilities for which the family will be responsible for paying must have individual meters to determine individual family usage and costs. If a utility has a shared meter, the landlord is responsible for the cost.

If utility service is not available for testing at the time of the initial inspection, the AHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The AHA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the AHA.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, the AHA 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 the AHA. The AHA 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.

8.II.C. ~~ANNUAL PERIODIC~~ HQS INSPECTIONS [24 CFR 982.405(A)]

Scheduling the Inspection

Each unit under HAP contract must have ~~an annual/periodic~~ inspections ~~no more than 24 months after the most recent inspection~~. The schedule for periodic inspections by program can be found in Section 8-II.A Overview Types of Inspections.

If an adult family member or other adult designated by the family cannot be present on the scheduled date for good cause, the family may request that the AHA reschedule the inspection. The AHA and family will agree on a new inspection date that generally should take place within 7 calendar days of the originally-scheduled date.

If the family misses a scheduled appointment for an inspection without notifying the AHA, the AHA will consider the family to have violated its obligation to make the unit available for inspection. Two “no-show” inspections where the family does not make the unit available after reasonable notice may result in termination of the family’s assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [~~HCV GB P. 10-30~~]

The AHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

During a special inspection, the AHA 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/periodic~~ inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, the AHA may elect to conduct a full ~~annual/periodic~~ inspection.

For families and participants included in the MTW program, the family or landlord may request a special inspection at any time.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B)], ~~HCV GB P. 10-32~~]

HUD requires a AHA 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/periodic~~, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND REINSPECTIONS 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, the AHA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

In the case of a project-based unit, the AHA will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the AHA determines that a unit does not comply with HQS, the AHA will follow the same procedure for notice, corrective action, abatement and termination of PBV-assistance for the HAP contract unit as provided for units in the tenant-based voucher program. (Also see Sections 16-III.D. and 16-IX.A.).

When life threatening conditions are identified, the AHA will immediately notify both parties. The first level of notice is in-person during the inspection, and this will begin the 24-hour correction period. If either party is not present at the inspection, the next level of notice will be by telephone at the telephone number of record, with a verbal message left if possible, and this will serve as the start of the 24-hour correction period. If the AHA has an email address for either or both parties, notice will be sent via email as well. As a last resort, the notice will be mailed, but this does not remove the 24-hour requirement for correction of the life-threatening condition. The notice will specify who is responsible for correcting the violation. The responsible party must correct the defect within 24 hours.

When failures that are not life threatening are identified, the AHA will send the owner and the family a written notification of the inspection results within seven calendar 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. The responsible party must correct the defect within 30 calendar days from the date of the failed inspection (or by the end of any AHA-approved extension).

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 AHA-approved extension), the owner's HAP will be abated in accordance with AHA 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 AHA-approved extension, if applicable) the family's assistance will be terminated in accordance with AHA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the AHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the AHA may grant an exception to the required time frames for correcting the violation, if the AHA determines that an extension is appropriate [24 CFR 982.404].

Extensions will be granted in cases where the AHA 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 is expensive (e.g., exterior painting or roof repair) and the owner needs time to obtain funds.

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.

Owners must make requests for extensions in writing and include verification of the reason the extension is needed.

Reinspections and Self-Certification

For failures due to life-threatening conditions, the AHA will conduct a reinspection on the following day to document that the defect was corrected within 24 hours.

For non-life threatening defects, if there are fewer than five fail items in the first inspection, self-certification by the owner and tenant can be used to establish compliance with HQS. For a re-inspection with fewer than two fail items, self-certification can be used. Owner/Landlord must have a documented history of HQS compliance through AHA to qualify for the use of this Owner/Tenant Certification of Repairs form. AHA may verify the completeness of all repairs by a Quality Control Inspection within 90 days of the initial date of inspection.

If there are more than five fail items, the AHA will schedule a reinspection approximately one week before the end of the 30-day corrective period, or any AHA-approved extension. The family and owner will be given reasonable notice of the reinspection appointment.

If the deficiencies have not been corrected by the time of the reinspection or if the AHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the AHA will immediately ~~send~~ schedule a second reinspection no later than the final day of the corrective period or any AHA-approved extension (or first business day thereafter) ~~together with~~ 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 Chapter 12, in accordance with AHA policies.

~~If the AHA is unable to gain entry to the unit at the time of the second scheduled reinspection, the AHA 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.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the AHA 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 the AHA, HUD requires the AHA to abate HAP no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. AHA will terminate HAP on the 31st day after the inspection. 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 tenant-based voucher holder family's responsibility. Owner rents are abated for project-based units regardless of fault. (See Sections 16-III.D. and 16-IX.A.).

The AHA will abate HAP beginning with the first day of the month after the AHA specified correction period (including any extension) has been reached and the owner has failed to make the correction.

The AHA will inspect abated units within seven calendar days of the owner's notification that the work has been completed. (Self-certification cannot be used with abated units.) 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

The AHA must decide how long any abatement period will continue before the HAP contract will be terminated. The AHA 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 will give the owner reasonable notice of the termination. The AHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

The maximum length of time HAP may be abated is 90 days. Reasonable notice of HAP contract termination by the AHA is 30 days. In general, if HQS defects for which HAP is being abated are not corrected by the end of the first month of HAP abatement, the AHA will notify the owner that the HAP contract will be terminated no later than the end of the 90-day abatement period. The AHA will issue a voucher to the tenant family if this has not already been requested by the family. If the owner completes corrections and notifies the AHA before the termination date of the HAP contract, however, the AHA 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.

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 the AHA (and any extensions), the AHA 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.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the AHA 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.

AHA-owned Units [24 CFR 982.352(b), Federal Register / Vol. 82, No. 134 / Friday, July 14, 2017]

In cases where an HCV family is receiving assistance in a AHA-owned unit, the AHA 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~~ AHA-owned unit is defined as a unit that is owned by the AHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the AHA) (1) Owned by the AHA; (2) owned by an entity wholly controlled by the AHA (such as Alameda Affordable Housing Corporation); or (3) owned by a limited liability company (LLC) or limited partnership in which the AHA (or an entity wholly controlled by the AHA) holds a controlling interest in the managing member or general partner. The independent agency must communicate the results of the rent reasonableness determination to the family and the AHA. The independent agency must be approved by HUD, and may be the unit of general local government for the AHA jurisdiction (unless the AHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The AHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment. See 9-I.H. Changes in Lease or Rent for additional information about requesting rent adjustments.

The owner and family first negotiate the rent for a unit. The AHA (or independent agency in the case of AHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the AHA 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 consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the AHA may request owners to provide information about the rents charged for other units on the

premises. In evaluating the proposed rents in comparison to other units on the premises the AHA will consider unit size and length of tenancy in the other units.

The AHA will determine whether the requested increase is reasonable within 30 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

If the request for rent increase coincides with the annual reexam, the adjustment will be effective on the same date the annual reexam takes effect. All other rents adjustments will be effective the first of the month following 60 days after the AHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

AHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the AHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the AHA to make a determination at any other time. The AHA may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, the AHA will always make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the AHA determines that the initial rent reasonableness determination was in error or (2) the AHA 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 AHA to take into consideration the factors listed below when determining rent comparability. The AHA 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)
- 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 the AHA 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 the AHA information regarding rents charged for other units on the premises.

8-III.D . AHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

The AHA may collect and maintain data on market rents in the AHA'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 24 months old will be eliminated from the database. AHA is choosing to use an automated data base system at this time. If adequate information of unassisted units is not available in the automated data base AHA will use the aforementioned process to determine reasonable rents.

How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The AHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the AHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable

project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

The AHA will notify the owner of the rent the AHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The AHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 7 calendar days of the AHA's request for information or the owner's request to submit information.

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)
- PIH Notice 2017-13 Guidance on HUD's Lead Safe Housing Rules Pertaining to Elevated Blood Lead levels for the Public Housing, Housing Choice Voucher, and Project-Based Voucher Programs

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

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 openable 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.

Lead-Based Paint

HUD's Lead Safe Housing Rule (LSHR) applies to "target housing," which, under the LSHR, is any housing constructed prior to 1978, except housing for households for the elderly or persons with disabilities or any 0- bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

The key changes in the LSHR include revising HUD's "environmental investigation blood lead level" (EIBLL) to the "elevated blood lead level" (EBLL), enhancing the level of investigation required for a housing unit of a child with an EBLL to an "environmental investigation" and adding a requirement for testing in other covered units when a child is identified in a multiunit property.

A Housing Choice Voucher Owner is responsible for:

1. Initial notification of a confirmed case to HUD: Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case within 5 business days.
2. If the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days.
3. Verification of the case, when necessary.
4. Control of lead-based paint hazards within 30 calendar days of an investigation, using a certified lead-based paint abatement firm or certified lead renovation firm.
5. In a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
6. Ongoing maintenance.

For Housing Choice Voucher units, the AHA is responsible for:

1. Verification of the case. The PHA shall immediately verify the information with the public health department or other medical health care provider.
2. Environmental Investigation.
3. Monitoring the owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner.
4. Control. Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common areas servicing that unit.

The AHA will assist the owner by providing contact information when requested. The AHA will collaborate with the owner on the response, including providing the names of qualified and certified lead hazard control contractors, providing for the clearance examination, and ensuring notification to other residents in a multi-unit property.

For project-based voucher units, the responsibilities of both the AHA and the owner change slightly. Please see the above referenced PIH Notice for these changes.

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.

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.

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 or 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.
- (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 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 the AHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the AHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the AHA 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 the AHA, 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)]

9-I.A. TENANT SCREENING

The AHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The AHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the AHA'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 AHA approval of the tenancy, the AHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

The AHA must provide the owner with the family's current and prior address (as shown in the AHA records); and the name and address (if known to the AHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The AHA is permitted, but not required, to offer the owner other information in the AHA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

The AHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The AHA will not screen applicants for family behavior or suitability for tenancy.

Owners are responsible for screening prospective tenants. At, or before the AHA's approval to lease a unit, the AHA will advise the owner that the AHA has not screened the family's behavior or suitability for tenancy and that this screening is the owner's responsibility. -(24 CFR 982.307(a)). Owners are strongly encouraged to screen prospective tenants.

Owners may request and the AHA will provide specific information about the family being considered for tenancy. The AHA will provide the ~~following~~ information listed in 3-III.D Screening for Suitability as a Tenant.:

- ~~• The family's current address as provided by the Applicant; and~~
- ~~• The name and address, if known, of the owner/landlord of the family's current and prior places of residence.~~

~~The AHA will only respond to specific questions asked by owners and only when the AHA has documentation to confirm the accuracy of the information being provided. Information may be released if contained in the following types of documents;~~

- ~~• Notices of lease violation or termination~~
- ~~• Unit inspections~~
- ~~• Owner claims for unpaid tenant rent and damages~~
- ~~• Records of illegal drug activities as reported in newspapers or other public records~~
- ~~• Tenant rent accounts (for tenants of AHA managed housing units)~~

~~Examples of questions that an owner might ask and to which the AHA will respond include:~~

~~Q: Has a lease ever been terminated because the prospective tenant failed to pay the rent?~~

~~A: Yes. The AHA has a Notice of Termination on file for unpaid rent.~~

~~Q: Has another owner ever claimed damages caused by the prospective tenant? If so, did the tenant pay for those damages?~~

~~A: Yes. The Housing Authority has a 1993 Claim for Damages on file, and yes, the tenant has paid for those damages.~~

~~Questions to which the answers may not be found in the above-mentioned documentation, will be reviewed by the AHA attorney prior to responding.~~

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 the AHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit a completed Request for Tenancy Approval (RFTA) – Form HUD-52517 to the AHA.

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the AHA 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 the AHA 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.

The RFTA must be submitted no later than the expiration date stated on the voucher. [HCV GB ~~p.8-15~~[Housing Search and Leasing page 15](#)].

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted [online, by e-mail, as hard copies](#), in-person, by mail, or by fax.

The family may not submit, and the AHA will not process, more than one (1) RFTA at a time.

When the family submits the RFTA the AHA will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner, or both), the AHA will notify the family and the owner of the deficiencies.

Corrections to the terms of the RFTA, missing information and/or missing documents will be accepted [online or by e-mail](#), in-person, by mail, by fax or by phone.

Because of the time sensitive nature of the tenancy approval process, the AHA will attempt to communicate with the owner and family by phone, ~~fax,~~ [through the landlord portal](#), or [by email](#). The AHA will use mail when the parties can't ~~not~~ be ~~reached by phone, fax, or email~~ [by other methods](#).

9-I.C. OWNER PARTICIPATION

The AHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the AHA 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.

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 the AHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The AHA 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.

AHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the AHA issuing the voucher may also be leased in the voucher program. In order for a AHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the AHA 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 AHA-owned unit without any pressure or steering by the AHA.

The AHA has eligible AHA-owned units available for leasing under the voucher program.

The AHA will inform the family of this housing at the time of the briefing. The AHA will also 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 an AHA-owned unit without any pressure or steering by the AHA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the AHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the AHA has chosen to allow.

The regulations do require the AHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

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.

Unit Size

In order to be eligible, the dwelling unit will be appropriate for the number of persons in the household. The occupancy standard must be followed for all project-based units including any exceptions under approved MTW activities. A family with a tenant-based voucher will 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 tenant-based voucher family will 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.

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; the AHA 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 the AHA. 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.

The AHA 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

Term of Assisted Tenancy

- The initial term of the assisted dwelling lease will be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.
- Except in the case of a project-based unit, the HUD program regulations permit the AHA to approve a shorter initial lease term if certain conditions are met.
 - The AHA will approve an initial lease term of less than one year when the AHA determines that: (i) Such shorter term would improve housing opportunities for the tenant; (ii) the unit has not been project-based; and (iii) Such shorter term is the prevailing local market practice.
- During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].
- Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV [GB Housing Search and Leasing page 27 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.

The AHA 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. The AHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the AHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

The AHA will allow the owner to collect any security deposit amount the owner determines is appropriate as state law limits the amount of security deposit an owner may collect. Therefore, no modifications to the HAP contract will be necessary.

An owner may collect a security deposit from the prospective tenant that is the same amount of deposit collected from tenants of similar unassisted units.

The security deposit must not exceed state requirementsthe following:

- Unfurnished Unit: Two month's contract rent (this includes any amount labeled as last month's rent)
- Furnished Unit: Three month's contract rent (this includes any amount labeled as last month's rent)

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 the AHA'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)].

The AHA 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.

AHA Review of Lease

The AHA will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the AHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will be accepted by e-mail, in-person, by mail, by fax, or by phone.

Because the initial leasing process is time-sensitive, the AHA will attempt to communicate with the owner and family by phone, fax, through the landlord portal, or by email. The AHA will use mail when the parties can't not be reached by phone, fax, or email other methods.

The AHA 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 the

AHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)].

The AHA will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the AHA 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, the AHA 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 the AHA 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 the AHA, 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)] has been provided.

The AHA will complete its determination within 14 calendar days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with the AHA, the AHA will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will be accepted as hard copies, by e-mail, in-person, by mail, by fax, or by phone.

If the AHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. The AHA 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), the AHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the AHA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the AHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the AHA has given approval for the family of the assisted tenancy, the owner and the AHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The AHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The AHA 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.

The AHA may not pay any housing assistance payment, including any landlord incentives or vacancy loss, 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, the AHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the AHA may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the AHA. The AHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the AHA will execute the HAP contract. The AHA will not execute the HAP contract until the owner has submitted IRS form W-9. The AHA 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.

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 the AHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, AHA 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 the AHA 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 dwelling lease containing the altered terms. If the responsibilities for utilities has been altered or the family moves to a new unit, a new Request for Tenancy Approval (RFTA) must be submitted. In both all three cases above, a new HAP contract must be executed.

Where the owner is requesting to change the amount of the contract rent, the owner must propose these changes and submit notice to the resident and the AHA, as well as the required rent increase request forms to the AHA, at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The AHA 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 and comparable to unassisted units at the same property. 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)].

Where the owner is requesting a rent increase, the AHA will determine whether the requested increase is reasonable within 30 calendar days of receiving the complete request packet from the owner to provide at least 30 days written notice of any changes in tenant rent share or HAP to the property owner. The property owner and resident will be notified of the determination in writing.

If the request for rent increase coincides with the annual-regular reexamination, the adjustment will be effective on the same date the annual-reexamregular reexamination takes effect. All other rents adjustments will be effective the first of the month following 60 days after the AHA's receipt of the owner's request or on the date specified by the owner, whichever is later. Chapter 16 discusses rent increases for Project-Based Voucher owners.

For families participating in the MTW program, an owner request for a rent increase will not be counted towards the one interim per year cap.

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 AHA policies governing moves within or outside the AHA'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 the AHA's HCV program, whether the family moves to another unit within the AHA's jurisdiction or to a unit outside the AHA'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 the AHA's jurisdiction. This part also covers the special responsibilities that the AHA 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)] with tenant-based assistance and with project-based assistance, any time after the first year of occupancy. If the family terminates the lease on notice to the owner, the family must give the AHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

If the family in a project-based voucher unit wishes to move with continued tenant-based assistance, the family must contact the AHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with these requirements and the AHA has the available resources, the AHA will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher.

If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the AHA will give the family priority to receive the next available voucher. If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance. [24 CFR 983.260]

- The Violence Against Woman Reauthorization Act of 20~~13~~22 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.” [Pub.L. 113-4]

- 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 will give the AHA a copy of the termination agreement. The initial lease term must be for at least one year for a project-based unit and may not be terminated without good cause. In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.
- 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 the AHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The AHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.314(b)(1)(i)].
- The AHA 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, the AHA will issue the family a new voucher, and the family and AHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the AHA will terminate the HAP contract for the tenant-based voucher family’s old unit in accordance with the HAP contract terms and will notify both the family and the owner of the termination. The tenant-based voucher HAP contract terminates at the end of the calendar month that follows the calendar month in which the AHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

If the family lives in a PBV unit, the family and the owner will be notified within 14 calendar days that the family will be offered continued assistance in another unit. This assistance may be in one of the following forms:

- Another project-based voucher unit; or
- A tenant-based voucher ~~;~~ ~~or~~
~~A HOME unit.~~

If the AHA offers the family the opportunity to receive a tenant-based voucher, the AHA will terminate HAP for the wrong-sized PBV unit at expiration of the term of the family’s HCV voucher including any extension granted by the AHA. If the AHA offers the family the opportunity for another PBV unit ~~or a HOME unit~~ and the family does not accept the offer or does not move out of the wrong-sized PBV unit within 30 calendar days from the date of the offer to accept the other unit, the AHA will terminate HAP for the wrong-sized or accessible unit, at the expiration of the 30-day time period.

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 PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the AHA to deny a family permission to move under the following conditions:

Insufficient Funding

The AHA may deny a family permission to move if the AHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

The AHA will deny a family permission to move on grounds that the AHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the AHA; (b) the AHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the AHA can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the AHA's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The AHA 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 he or she remained in the unit. [Pub.L. 113-4]

If the AHA has grounds for denying or terminating a family's assistance, the AHA 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 section 3-III.G and 12-II.E for VAWA provisions.

Moves through portability can be denied if the family is in violation of program regulations or moved out of the unit in violation of the lease [24 CFR 982.353 (b)]. Refer to section 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the AHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the AHA to prohibit more than one elective move by a participant family during any 12-month period.

The AHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the AHA's jurisdiction or outside it under portability.

The AHA 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, 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, the AHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the AHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the AHA's jurisdiction under portability, the notice to the AHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2016-9]. The notices must be in writing [24 CFR 982.5]. Notification to the AHA can be made before notification to the owner; however, the AHA will not complete the moving process until notice is given to the landlord. Duplicative assistance on two units will not be paid.

Approval

Upon receipt of a family's notification that it wishes to move, the AHA 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. The AHA will notify the family in writing of its determination within 14 calendar days following receipt of the family's notification.

Reexamination of Family Income and Composition

When a family wishes to move to another dwelling unit, no reexamination will be scheduled. The family's anniversary date will not change.

For families moving into or families approved to move out of the AHA's jurisdiction under portability, the AHA 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 the AHA's jurisdiction, the AHA will issue a new voucher within 14 calendar days of the AHA's approval to move. No briefing is required for these families. The AHA 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 the AHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the AHA's jurisdiction under portability, the AHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the AHA 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 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. However, the terms of the leases may not generally overlap (see next paragraph for exception). The AHA will not pay a housing assistance payment on two units on the first of the month.

However, the AHA will not pay more than three days of overlap of HAP without special documented approval for extenuating circumstances, such as reasonable accommodation for the disabled, non-voluntary displacement of tenants due to landlord or City action.

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. The AHA 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.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one such PHA, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA~~If there is more than one PHA in the area, the initial PHA may choose the receiving PHA~~ [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the AHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and AHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the AHA's jurisdiction under portability (see restrictions to non-resident applicants). However, HUD gives the AHA 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 the AHA 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, the AHA 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/cohead of an applicant family had a domicile (legal residence) in the AHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in the AHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The AHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2), in special circumstances, for family unification, or hard to house families with the approval of the Executive Director. Any exception to this policy, however, is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.353(9b).] 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 he or she remained in the unit.

The AHA will determine whether a participant family may move out of the AHA'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. The AHA 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)(~~31~~)]. The family must specify the area to which the family wishes to move [Notice 2016-9].

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, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-9].

Participant Families

The income eligibility of a participant family is not redetermined 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, the AHA generally will conduct a reexamination of family income and composition only if the family's ~~annual reexamination~~ regular reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The AHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the AHA to provide information on portability to all applicant families that qualify to lease a unit outside the AHA'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 the AHA's jurisdiction under portability. However, the AHA 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). The AHA will provide the name, address, and phone of the contact for the APHA in the jurisdiction to which they family wishes es to move. The AHA will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards and payment standards.

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(~~bc~~)(2)(ii)]. In issuing vouchers to applicant families, the AHA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

For participant families approved to move under portability, the AHA will issue a new voucher within 14 calendar days of the AHA's written approval to move.

The initial term of the voucher will be 180 days.

Voucher Extensions and Expiration

The AHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the AHA'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 AHA'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 AHA'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 **and billing must be received** within **6090** days following the expiration date of the AHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

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)(~~26~~)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2016-9]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(~~eb~~)(~~2~~)].

Because the portability process is time-sensitive, the AHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The AHA also will 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 incoming portable families and procedures related to appointments for voucher issuance. The AHA will pass this information along to the family. The AHA 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 AHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-9]
- A copy of the family's voucher [Notice PIH 2016-9]
- 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)(~~47~~)], Notice PIH 2016-9]
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(~~47~~)], Notice PIH 2016-9]

In addition to these documents, the AHA will provide the following information, if available, to the receiving AHA:

- Documentation of Social Security Numbers 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

The AHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB [Moves and Portability Pg. 13, p. 13-3](#)].

Initial Billing Deadline [Notice PIH 2016-9]

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 90 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 the AHA 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. If the receiving PHA reports that the family is not yet under HAP contract, the AHA 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. The AHA will send the receiving PHA a written confirmation of its decision by [e-mail or other confirmed delivery method such as DocuSign](#).

The AHA 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 2016-9]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth 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 overleasing or funding shortfalls. The AHA 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.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 ~~each year~~ from the receiving PHA at each reexamination even if there are not changes to the billing [PIH Notice 2016-9]. If the initial PHA fails to receive an updated 50058 by the family's ~~annual reexamination~~ regular reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Subsequent Family Moves

Within the Receiving PHA's Jurisdiction [24 CFR ~~982.3154~~(e)(1), Notice PIH 2016-9]

The initial PHA has the authority to deny subsequent moves by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If the AHA determines that it must deny moves on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving PHAs with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the AHA's jurisdiction.

The AHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities.

Outside the Receiving PHA's Jurisdiction [Notice PIH2016-9]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(~~917~~)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For AHA policies on denial and termination, see Chapters 3 and 12, respectively.)

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(~~10a~~)].

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(~~712~~)], and the amount of the family's

housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the AHA's jurisdiction under portability, the family is responsible for promptly contacting the AHA and complying with the AHA's procedures for incoming portable families [24 CFR 982.355(c)(~~38~~)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2016-9]

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(~~35~~)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2016-9]. (See ~~later under~~ "Absorbing a Portable Family" for more on this topic.)

Within 14 calendar days after receiving the port packet, the AHA will notify the initial PHA whether it intends to bill the initial PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-9]. (For more on this topic, see ~~later under~~ "Denial or Termination of Assistance.")

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 2016-9].

The AHA will not require the family to attend a briefing. The AHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual meeting, will orally inform the family about the AHA'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)(~~411~~)]. 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 2016-9, ~~24 CFR 982.201(b)(4)~~]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(~~91~~)].

For any family moving into its jurisdiction under portability, the AHA will conduct a reexamination of family income and composition, including criminal background checks on adult household members. However, the AHA will not delay issuing the family a

voucher for this reason. Nor will the AHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the AHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the AHA will rely upon any verifications provided by the initial APHA to the extent that they verification (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

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(~~cb~~)(613)]. 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)(615)].

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 2016-9].

When a family ports into its jurisdiction, the AHA will issue the family a voucher based on the paperwork provided by the family 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 the AHA's procedures. The AHA 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(e)(6)].~~

The term of the receiving PHA voucher may not expire before 30 calendar days from the expiration date of the initial PHA voucher [24 CFR 982.355 (13)].~~The receiving PHA's voucher will expire on the same date as the initial PHA's voucher.~~

Voucher Extensions [24 CFR 982.355(c)(614), Notice 2016-9]

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.

The AHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the AHA 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.

The AHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

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)(~~816~~)]. 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 PIH2016-9]. (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 2016-9]

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 ~~6090~~ days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-9]. 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.

The AHA will send its initial billing notice by fax, ~~or e-mail,~~ or other method that has a delivery confirmation method such as DocuSign, if necessary, to meet the billing deadline ~~but will also send the notice by regular mail.~~

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 overleased) [Notice PIH 2016-9].

Ongoing Notification Responsibilities [Notice PIH 2016-9, HUD-52665]

~~Annual Reexamination~~Regular reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each ~~annual reexamination~~regular 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.

The AHA will send a copy of the updated HUD-50058 ~~by regular mail~~ at the same time the participant 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.

Late Payments [Notice PIH 2016-9]

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 the 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.

Overpayments [Notice PIH 2016-9]

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 2016-9.

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)(~~917~~), ~~24 CFR 982.355(c)(10)~~].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2016-9]

If the AHA elects to deny or terminate assistance for a portable family, the AHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The AHA 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~~5. The AHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [24 CFR 982.355(d)(1), Notice PIH 2016-9].

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)(vi)].

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 2016-9]

If the AHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the AHA 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 the AHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

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

The AHA is required to reexamine each family's income and composition ~~at least annually~~regularly, 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 AHA policies concerning reexaminations are presented in three parts:

Part I: ~~Annual Reexamination~~ Regular Reexaminations. This part discusses the process for conducting ~~annual~~regular reexaminations. The schedule is different for families or participants included under MTW activities than those for families not included under MTW activities.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between ~~annual~~regular reexaminations. These reporting requirements are different for families or participants included under MTW activities than those for families not included under MTW activities.

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~~regular 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~~regular and interim reexaminations.

For families and participants included in MTW activities:

The Hardship Policy – Alternative Reexamination Schedule for Households found in Chapter 6 applied to both regular and interim reexaminations.

PART I: ANNUAL REEXAMINATIONREGULAR REEXAMINATIONS [24 CFR 982.516, MTW OPERATIONS NOTICE]

11-I.A. OVERVIEW

The AHA must conduct a reexamination of family income and composition at least annually for families and participants not included in the MTW program and triennially for families and participants included in the MTW program. 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~~regular reexaminations, the information to be collected and verified, and ~~annual~~regular reexamination effective dates.

11-I.B. SCHEDULING ~~ANNUAL REEXAMINATION~~ REGULAR REEXAMINATIONS

The AHA must establish a policy to ensure that the ~~annual reexamination~~ regular reexamination for each family is completed *within* the required deadlines.

For families and participants not included in MTW:

This reexamination schedule is a 12-month period, and but AHA may require reexaminations more frequently [HCV GB Reexaminations pg. 6-p. 12-1].

For families and participants included in MTW:

This reexamination schedule is a 36-month period, but AHA may require reexaminations more frequently. Families receiving zero income or less than \$5,000 per adult annually in income will be required to complete reexaminations annually.

The AHA will begin the ~~annual reexamination~~ regular reexamination process 120 days in advance of its scheduled effective date. Generally, the AHA will schedule ~~annual reexamination~~ regular reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 or 36 months from the effective date of the family's last ~~annual-regular~~ reexamination ~~or, during a family's first year in the program, from the effective date of the family's initial examination (admission).~~ The AHA will assign participants to a regular reexamination date based on the AHA's workflow and business needs.

If the family moves to a new unit, the AHA will not perform a new ~~annual-regular~~ reexamination.

The AHA also may schedule an ~~annual reexamination~~ regular reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the ~~Annual-Regular~~ Reexamination Process

The AHA is required to obtain the information needed to conduct ~~annual reexamination~~ regular reexaminations. How that information will be collected is left to the discretion of the AHA.

For families and participants not included in MTW:

Families generally are required to participate in a in-person reexamination interview every other year, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the AHA to request ~~a~~ reasonable accommodation (see Chapter 2).

In years where the family is not required to participate in an in-person interview, the ~~annual reexamination~~ regular reexamination will be conducted ~~by mail~~ online. Notification of the reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the AHA, and the deadline for providing it. Documents will be accepted by mail, by e-mail, by fax, or in person.

For families and participants included in MTW:

Families generally are required to participate in an in-person reexamination interview every three years, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the AHA to request reasonable accommodation (see Chapter 2).

If ~~a mailed~~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, as well as to any alternate address provided in the family's file.

An interview will be scheduled if the family requests assistance in providing information or documentation requested by the AHA.

Notification of reexamination interviews will be sent by first-class mail or e-mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the AHA in advance of the interview to schedule a new appointment. If a family misses the scheduled interview without notifying the AHA within 24 hours of the appointment, 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.

11-I.C. CONDUCTING ~~ANNUAL REEXAMINATION~~ REGULAR REEXAMINATIONS

As part of the ~~annual reexamination~~ regular reexamination process, families are required to provide updated information to the AHA 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 or to~~ supply all required information ~~(as described in the reexamination notice)~~ before the deadline specified in the notice ~~in years in which no interview is required~~. The required information will include a AHA-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 or by ~~mail~~other means (mail, e-mail, through the portal, or by fax) must be provided within 14 calendar days of the date the AHA notifies the family. 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

Streamlined ~~annual~~ re-certification for fixed sources of incomes. 24 CFR 982.516

The AHA has selected to adopt a streamlined income determination for any family member with a fixed source of income. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification.

For the family member's income from fixed sources, the AHA must perform third-party verification at least every three years. The AHA must continue to conduct third-party verification of deductions. For the fixed income source on the first year after the third-party verification, the AHA will determine if the source is a fixed source of income, and if it is, will use a third-party verified cost of living adjustment (COLA) to calculate the increased income. The second year after the third-party verification, the AHA will use a third-party verified cost of living adjustment (COLA) to calculate the increased income. The next year will require a third-party verification of the fixed source of income and not just the COLA. Public sources, such as the Social Security Administration's website can be used to verify a COLA. ~~To allow for simplified file management, the AHA will obtain the third-party verification of the fixed income source in years that are divisible by three (3).~~

Fixed sources of income includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans;
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments; or
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

Adding New Family Member If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the AHA must issue the family a new voucher, and the family and AHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the AHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

In the case of a PBV unit, the family and the owner will be notified within 14 calendar days that the family will be offered continued assistance in another unit. This assistance may be in one of the following forms:

- Another project-based unit; or
- A tenant-based voucher; ~~or~~
- ~~A HOME unit.~~

~~If the AHA offers the family the opportunity to receive a tenant-based voucher, the AHA will terminate HAP for the wrong-sized PBV unit at expiration of the term of the family's HCV voucher including any extension granted by the AHA. If the AHA offers the family the opportunity for another project-based unit or a HOME unit and the family does not accept the offer or does not move out of the wrong-sized project-based unit within 30 calendar days from the date of the offer to accept the other unit, the AHA will terminate HAP for the wrong-sized or accessible unit, at the expiration of the 30-day time period. See Chapter 16 Section 16-VII.C. Moves Overcrowded, Under-Occupied, and Accessible Units for timelines for PBV moves.~~

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, and does not have a dependent child, 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 AHA 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~~ regular reexamination process, the AHA 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), the AHA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

The AHA must establish policies concerning the effective date of changes that result from ~~an annual reexamination~~reexamination [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an ~~annual reexamination~~regular reexamination will take effect on the ~~family's anniversary date~~date set by the AHA for the regular reexamination, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the ~~annual reexamination~~regular reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the ~~annual reexamination~~regular reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter ~~46~~15.

For families and participants not included in MTW activities:

In general, a *decrease* in the family share of the rent that results from an ~~annual reexamination~~regular reexamination will take effect on the family's anniversary date.

For families and participants included in MTW activities:

In general, a decrease in the family share of the rent that results from a regular reexamination will take effect on the date set by AHA for the regular reexamination.

If the family causes a delay in processing the ~~annual reexamination~~regular reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the AHA by the date specified, and this delay prevents the AHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between ~~annual reexamination~~regular reexaminations. HUD and AHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the AHA must process interim reexaminations to reflect those changes. HUD regulations also permit the AHA 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. However, see below for interim limitations for families included in MTW activities. The AHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and AHA policies describing what changes families are required to report, what changes families may choose to report, and how the AHA will process both AHA- and family-initiated interim reexaminations.

For families and participants included in MTW activities:

Activity 2022-02 allows the agency to establish a limit on the number of interim reexaminations between regular reexaminations. The AHA is limiting households to one interim per year. Families may follow request additional interims as outlined in the Hardship Policy – Alternative Reexamination Schedule for Households found in Chapter 6.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The AHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. ~~However, due to family obligations under the program, the AHA has limited discretion in this area.~~

~~The AHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexamination~~regular 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 AHA approval. However, the family is required to promptly notify the AHA of the addition [24 CFR 982.551(h)(2)].

For families and participants not included in MTW activities:

The family must inform the AHA of the birth, adoption or court-awarded custody of a child within 14 calendar days.

For families and participants included in the MTW activities:

Family composition changes for family members not requiring approval would be processed at the next triennial or when the household transfers. The family may request an interim for family composition changes once a year, including an increase in subsidy when the family is over-housed.

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 AHA 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, the AHA 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), the AHA must issue the family a new voucher, and the family and AHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the AHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

Families must request AHA 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 14 consecutive days, or 30 cumulative days, within a 12-month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the AHA prior to the individual moving in the unit.

For families and participants included in MTW activities:

The family may request an interim for family composition changes once a year, including an increase in subsidy when the family is over-housed. Interims could be requested for additional adults to meet approved reasonable accommodations at any time.

The AHA will not approve the addition of a new family or household member unless the individual meets the AHA’s eligibility criteria (see Chapter 3).

The AHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the AHA determines an individual meets the AHA’s eligibility criteria as defined in Chapter 3, the AHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the AHA determines that an individual does not meet the AHA’s eligibility criteria as defined in Chapter 3, the AHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The AHA will make its determination within 14 calendar days of receiving all information required to verify the individual’s eligibility.

Departure of a Family or Household Member

Families must promptly notify the AHA if any family member no longer lives in the unit

[24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the AHA 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 the AHA within 14 calendar 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 the AHA within 14 calendar days.

For families and participants included in MTW activities:

The family may request one interim per year for an income decrease or family composition change. Involuntary household composition changes do not apply towards the interim limit, for example, reporting the death of a family member will not count towards the interim limit.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the AHA 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, the AHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so. The AHA will process interims within 45 days of receiving all required information and documentation.

AHA-Initiated Interim Reexaminations

AHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the AHA. They are not scheduled because of changes reported by the family.

The AHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the AHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).

For families and participants included in MTW activities:

Families receiving the Earned Income Disallowance (EID) will receive interims to change their EID portion annually that will not count towards the one interim per year limit.

If the family has reported zero income, the AHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income. If recurring income from outside the house is disclosed on this form, such as family contributions, the income will be added to the family's income for rent calculations purposes.

If at the time of the ~~annual reexamination~~regular reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the AHA will conduct an interim reexamination.

The AHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The AHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. These policies differ for families not included in MTW activities versus families included in MTW activities.

For families and participants not included in MTW activities:

~~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)].

For families and participants included in MTW activities:

Income increase(s) resulting in an annual increase of \$10,000 need to be reported. Increases of less than \$10,000 annually do not need to be reported between regular recertifications. Cumulative increases resulting in more than \$10,000 of income increases need to be reported when the \$10,000 level is reached.

For income decreases, the family must show that the gross income loss is going to significantly (greater than 10%) and long-term (more than 6 months) change the family's annual income going forward from the income used at the last income calculation. No interim decreases will be processed during the first six months after initial occupancy.

There is a one interim per year limit for families under MTW activity 2022-02. Most family-initiated interim reexaminations due to income are counted towards the cap, with the exception that increases of more than \$10,000 in income are not counted towards the cap.

Families may request an interim that does not meet the above conditions or additional interims, but the family must meet the qualifications under the Hardship Policy – Alternative Reexamination Schedule for Households found in Chapter 6.

Required Reporting

HUD regulations give the AHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

For families and participants not included in MTW activities:

Families are required to report all increases in income, including new employment, within 14 calendar days of the date the change takes effect.

For families and participants included in MTW activities:

Families must report increases in income that meet the \$10,000 threshold within 14 calendar days of the date the change that causes the family to reach the threshold takes effect.

The AHA will 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. The AHA also will conduct an interim reexamination if the tenant reports an annual increase in gross income of \$510,000 or more. If the result is an increase in the tenant's portion of the rent, the increase will be effective on the first day of the second month following the month in which the change occurred.

In all other cases, the AHA will note the information in the tenant file, but will not conduct an interim reexamination.

Optional Reporting for Families and Participants Not Included in MTW Activities

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The AHA must process the request if the family reports a change that will result in a reduced family income. [HCV GB, p. 12-9].

Welfare Benefits Decrease

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.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify the AHA of all changes by submitting a ~~Tenant Report of Change Report of Change on the Rent Café Portal~~ form.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the AHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the AHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 14 calendar days of receiving a request from the AHA. This time frame may be extended for good cause with AHA approval. The AHA will accept required documentation by mail, by e-mail, through the online portal, by fax, or in person.

Effective Dates

The AHA 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 156.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the date the change ~~would have~~has become effective, the change will be made retroactively.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for ~~a regular or an annual or~~ interim reexamination, the AHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), ~~HCV 12-6 and 12-10~~]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the AHA'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 Payment Standards PG. 1, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the AHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the AHA'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~~ regular 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 time of move (transfer) or at the time of an annual that changes the payment standard due to a change in family composition.
- If the family moves to a new unit, the current payment standard applicable to the family will be used when the new HAP contract is processed. ~~If the family is in a PBV unit, the family will not be allowed to remain in place, but will be required to move within 30 calendar days as described in 11-II.B.~~
- If a new HAP contract is executed due to changes in the lease (even if the family remains in place and the family composition stays the same) the higher of the old payment standard or the current payment standard will be used.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the AHA'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*~~regular reexamination~~ following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the AHA's utility allowance schedule [HCV GB Utility Allowances PG. 2, p. 12-5]. Chapter 165 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the AHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the AHA must use the AHA 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~~regular reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The AHA 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 Reexaminations PG. 5, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the AHA'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 1 ~~65~~).

11-III.D. DISCREPANCIES

During ~~an~~ a regular annual or interim reexamination, the AHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the AHA may discover errors made by the AHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 1 ~~34~~.

CHAPTER 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This 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 the AHA 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 the AHA may consider in lieu of termination, the criteria the AHA must use when deciding what action to take, and the steps the AHA 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 the AHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the AHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the AHA.

Termination of VASH participants will be in accordance with the VASH regulations, including for failing to comply with case management requirements.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of AHA subsidy goes down. If the amount of HCV assistance provided by the AHA 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 the AHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the AHA 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 cohead. Before terminating the family's assistance, the AHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the AHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The AHA 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. In keeping with provisions of the Violence Against Women Reauthorization Act of 2013~~22~~²² (VAWA), 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.

Serious or repeated lease violations will include, but not be limited to, nonpayment of rent, unauthorized household members, 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.

- 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 filed an unlawful detainer against the family, but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the AHA 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, the AHA may, on a case-by-case basis, choose not to terminate assistance.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The AHA 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.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The AHA 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 the AHA, 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)]

The AHA 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)]

The AHA 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]

The AHA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612. (See Chapter 3-II.E)

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(I)]

HUD requires the AHA to establish policies that permit the AHA to terminate assistance if the AHA 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

The AHA may terminate a family's assistance if any household member, live-in aide, or guest 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.

The AHA may 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.

The AHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the AHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the AHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

The AHA may ~~will~~ terminate a family's assistance if any household member, live-in aide, or guest, has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

This includes drug related criminal activity, which may have occurred either on or off the premises and includes activities of any family member, live-in aide or guest.

Any family member who engages in drug-related criminal activity according to a preponderance of the evidence, or who allows a live-in aide or guest to engage in such activities, will have his or her assistance terminated. Evidence of such activity includes the following:

- Conviction of a felony involving drugs (e.g., felony possession of a controlled substance);
- Conviction of a misdemeanor for the same activity;
- An incident or pattern of arrests for drug use or possession or sale; or
- A preponderance of evidence exists that a pattern of drug use or possession or use of alcohol that interferes with the health and safety or disturbs the peaceful enjoyment of the premises of others.

In making its decision to terminate assistance, the AHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the AHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c)]

HUD permits the AHA to terminate assistance under a number of other circumstances. It is left to the discretion of the AHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 [and as reauthorized in 2022](#) 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.

The AHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency ~~or Welfare to Work voucher~~ programs.

The AHA may 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 AHA policies.

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

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

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

Any family member has committed any criminal activity which may threaten the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

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 will not be terminated for owing rents to an owner of Moderate Rehabilitation units with less than a 30-day notice if 1) the HUD Secretary makes a requisite finding and provides housing providers with the requisite notice during a national emergency, 2) HUD provides information necessary to include in lease termination notices and this information was included in the notice to the tenant, and 3) there is funding available to assist tenants with nonpayment of rent during a national emergency.

The family has not reimbursed any PHA for amounts the 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 the AHA.

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

Abusive or violent behavior towards AHA 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.

If the AHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for

families in the program, the assistance of one or more families may be terminated. Families will have their assistance terminated in reverse order of receiving assistance from the Housing Choice Voucher program. The date of admission to the program will be used to determine the order of termination. Families transferring from the PBV program to the HCV program will be ordered by the date of admission to the PBV program.

Participants in the following programs/categories will not be terminated due to overleasing, but may be terminated due to underfunding:

- Family Self-Sufficiency
- ~~Welfare to Work~~
- Mainstream
- Families with Conversion vouchers
- Elderly/disabled families

In making its decision to terminate assistance, the AHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and Section 12-II.E. Upon consideration of such alternatives and factors, the AHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The AHA 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 [\[24 CFR 982.312\]](#). Absence 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 Sections [12-II.E.](#) [and 12-II.F.](#)

A family may be absent for a period of less than 30 calendar days without notifying the Housing Authority unless the absence will interfere with the scheduled ~~annual-regular~~ recertification or ~~annual-regular~~ unit inspection in which case the family must call and make appropriate arrangements.

When an absence will be for 30 calendar days or more, the family must notify the Housing Authority in writing as follows:

Planned Absences: The family must provide 14 calendar days advance written notice of planned absences (e.g., vacations, stays in convalescent care facilities, care or death of family members out of town, or other events which may require an extended time away from the residence.).

Unplanned Absences: The family must advise the Housing Authority in writing within the first 14 calendar days of the absence if the absence is expected to last 30 calendar days or more (e.g., hospital stays, jail, ~~or~~ prison sentences, care or death of family

members out of town, or other events which may require an extended time away from the residence).

Notification must include documentation in support of the reason for the absence, the anticipated date of return to the unit, and an address and telephone number where the family can be reached during the absence. Such documentation may include but is not limited to travel documents, letter from doctor or similar qualified professional in support of medically-required absence/support to family member, death certificate, long-term or in-patient care documentation. A reason must be given if the family is unable to anticipate a date of return to the unit. If the period of absence is expected to occur during the projected time frame for either ~~annual~~regular re-examination or ~~annual~~regular Housing Quality Standard (HQS) inspection, the family must make alternative arrangements to meet their family obligations that are acceptable to the AHA. If the assisted lease contains provisions regarding tenant absence from unit, the family must document that it has complied with these lease provisions.

Within 14 calendar days of receipt of this written notice, the Housing Authority will send to the family a written notification of approval or denial of the absence and will advise the family that housing assistance payments will terminate if the family is absent for more than 180 consecutive calendar days. The family must advise the Authority in writing within three calendar days of the family's return to the unit

The Housing Authority also may require additional information or certification that the family is absent from the unit or has returned to it. Failure to provide written notification or other requested information to the Authority related to a family's absence or return to the assisted unit are grounds for termination of housing assistance. The family may only have one long-term absence, i.e., of almost 180 days, away from the unit per year. The Executive Director has the discretion to limit any absences longer than 30 days at any time.

Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate. The owner must reimburse the AHA for any housing assistance payment for the period after the termination.

The Housing Authority must terminate the Housing Assistance Payment (HAP) contract for an assisted unit if the family is absent from the assisted unit for more than 180 consecutive calendar days. If this occurs, the family must submit a written request to continue in the Housing Choice Voucher (HCV) Program within 14 days of the termination of the HAP contract. This request must be made in writing, and the family must subsequently provide all required information and documents by the specified deadline in order for the AHA to recertify continuing eligibility and issue a new voucher. If a request is not received, or if the family does not provide required documents by deadlines, the family will be notified that the family has been deemed to have voluntarily given up HCV ~~their Section 8~~ assistance.

If the family's HAP contract was terminated after the 180 day limit for a previously approved absence and the family cannot submit or complete a request for recertification within 14 days due to special circumstances beyond the family's control, which include, but are not limited to, hospitalization, convalescent care, or disability, (but not including incarceration), the Executive Director may permit an additional period of time for the family to request readmission or resumption of assistance.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The AHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the AHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the AHA may choose to take when it has discretion, and outlines the criteria the AHA 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 the AHA terminates assistance depends upon individual circumstances. HUD permits the AHA 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, the AHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon AHA request. Any further information received by the AHA that the culpable family member has returned to the unit, for any length of time, will be adequate documentation of a violation of this condition and will be grounds for termination of assistance for the entire family.

Repayment of Family Debts

If a family owes amounts to the AHA, as a condition of continued assistance, the AHA will require the family to be current on an existing payment agreement or repay the full amount or to enter into a repayment agreement if none currently exists, within 30 days of receiving notice from the AHA of the amount owed. See Chapter 15 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the AHA 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)].

The AHA 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)]

The AHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

The AHA 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

- The AHA may require the family 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.