STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

25 SIGOURNEY STREET ● HARTFORD, CONNECTICUT 06106-5033

TO: Those interested in the draft 2013 Section 8 Administrative Plan

FROM: Family and Housing Services Group, Division of Integrated Services

DATE: February 26, 2013

Thank you for your interest in the draft 2013 Section 8 Administrative Plan of the department.

The plan is available only in Portable Document Format (pdf). It can be printed or reviewed on-line but cannot be edited.

Overall there have been general corrections to the Plan including, but not limited to, formatting, spelling and other technical changes.

To make your review easier and to insure accuracy in referencing specific parts of the draft, each line of the plan is numbered.

In the glossary, updates have been made to reflect updated definitions, omissions or additional words and the IRS Publication 502 has been updated to 2012 and included as Chapter 22.

Throughout the document, the use of the word "days" has been revised to denoted either "business" or "calendar" days.

Specific Section changes

Pg. 1-1 ***Introduction***

Changes made to reflect new mission statement/goals/overview

Pg. 1-5 ***Reasonable Accommodations Policy***

Section now mirrors Reasonable Accommodation Section in the state's Rental Assistance Program (RAP) that recently had new regulations adopted.

Pg. 5-1 ***Determining Family Unit (Voucher) Size***

Section redefines when separate bedrooms are required.

Page 6-5 ***Criteria for Hardship Exception***

Section now clarifies that the loss of employment for willful misconduct or voluntary separation are not grounds for the exception for six months from the date of separation.

Page 8-8 ***Voucher Retention***

Section defines how a voucher may be retained by another household member.

An Equal Opportunity / Affirmative Action Employer
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Pg. 10-4 ***Acceptability Criteria and Exceptions to HQS***

Sleeping room is more clearly defined.

Pg. 10-6 ***Consequences if Owner is Responsible***

The section regarding days a PHA has to inspect an abated property has been changed to six business days to have the inspection completed

Pg. 12-4 ***Reporting Interim Changes***

All changes to be reported within thirty days. Adjustments will be made now only when an increase or decrease is $200 or more in gross monthly income over the last income documented in file.

Pg. 15-5 ***Screening and Termination for Drug Abuse and Other Criminal Activity***

Denial of Assistance to Applicants – Lists previous criminal offenses and associated required period of time an applicant shall be disqualified from admittance onto the program should they be called for called for voucher issuance.

Pg. 15-15 ***Procedure when Appointments are missed or Information is not provided***

Defines details when an appointment is missed and the maximum number of missed/rescheduled appointments allowed.

Chapter 17 in the prior plan is eliminated in the draft plan and the remaining chapters in the draft plan are re-numbered.

Pg. 17-1 ***Introduction***

Additional ways to recover debts listed.

Pg. 17-1 ***Repayment Agreement for Families***

Maximum term of repayment agreement has been increased to one-hundred twenty months.

Pg. 17-2 ***Debts due to program Fraud and Abuse***

Unreported income limit increased to $10,000.00.

Pg. 17-2 ***Debts due to Minimum Rent Temporary Hardship***

Maximum term of repayment agreement has been increased to one-hundred twenty months.

Pg. 17-2 ***Guidelines for Repayment Agreements***

Section now requires the PHA to negotiate individual initial payments and terms of repayment not to exceed 120 months. Any payments deferred for financial hardship are now addressed as are how these amounts are reconciled. The section also establishes a maximum number of repayment agreements that can be entered into in any sixty month period and the result of needing a third agreement within the sixty months.

Pg. 17-3 ***Writing off Debts***

Debts are tiered by dollar amount and aligned with associated years up to a maximum of seven years before after written off the program.

Pg. 18-2 ***Informal Review Procedures for Applicants***

Procedure for informal Review: Timeline expanded for request to be received by twentieth business day (*prior plan had 14 days*). Scheduling of hearing within thirty business days from receipt of hearing request receipt date.

Pg. 18-3 ***Informal Review Procedures for Applicants***

Procedure for informal Review: Timeline expanded for when a review of the findings will now be submitted to applicant. Timeline now twenty-one business days (*prior plan had fourteen days*).

Pg. 18-4 ***Informal Hearing Procedures***

Timeline expanded for request from date of action to be received by twentieth business days (*prior plan had 14 days*). Scheduling of hearing within thirty business days from receipt of hearing request receipt date.

Pg. 18-6 ***Informal Hearing Procedures***

The PHA's hearing procedures: The first twenty pages of file copy are free. Copies in excess of twenty shall be twenty-five cents per page.

Pg. 18-7 ***Submission of all materials….of the Informal Conference***

Timeline expanded for when a review of the findings will now be submitted to participant. Timeline now twenty-one business days (*prior plan had 7 days*).

Pg. 18-8 ***Submission of all materials….of the Informal Conference***

Timeline expanded for when the PHA shall send a letter to the participant if it determines that it is not bound by the hearing officer's determination. Timeline now twenty-one business days (*prior plan had fourteen days*).

Pg. 18-8 ***Submission of all materials….of the Informal Conference***

Timeline expanded for when a party may request a reconsideration of the PHA's decision to the Manager of the Family and Housing Services Group. Timeline now twenty-one business days (*prior plan had fourteen days*).

Pg. 18-8 ***Submission of all materials….of the Informal Conference***

Timeline created for when the Manager of the Family and Housing Services Group must submit a decision to applicant/recipient on reconsideration.

DRAFT PLAN

for Administration of the U. S. Department of Housing and Urban Development (HUD)

HOUSING CHOICE VOUCHER (HCV) Program

Effective July 1, 2013

Family and Housing Services Group

Division of Integrated Services

A tool for administering and managing the federal Housing Choice Voucher Program of the Connecticut Department of Social Services.

STATE OF CONNECTICUT

Department of Social Services

25 Sigourney Street

Hartford, CT 06106-5033

TABLE OF CONTENTS

Chapter 1 STATEMENT OF POLICIES AND OBJECTIVES 1-1

A. DEPARTMENT MISSION STATEMENT/OVERVIEW 1-1

B. LOCAL GOALS [24 CFR 982.1] 1-2

C. PURPOSE OF THE PLAN [24 CFR 982.54] 1-3

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(21)] 1-3

E. RULES AND REGULATIONS [24 CFR 982.52] 1-3

F. TERMINOLOGY 1-4

G. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)] 1-4

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202] 1-5

I. TRANSLATION OF DOCUMENTS 1-7

J. MANAGEMENT ASSESSMENT OBJECTIVES 1-7

K. RECORDS FOR MONITORING PHA PERFORMANCE 1-9

L. PRIVACY RIGHTS [24 CFR 5.212] 1-10

M. FAMILY OUTREACH 1-10

N. OWNER OUTREACH [24 CFR 982.54(d)(5)]. 1-11

O. DISCRETION TO OPERATE A PROJECT-BASED VOUCHER (PBV) PROGRAM [24 CFR 983.5 (c), 983.6 (a), 983.51(b)(d) 1-11

Chapter 2 ELIGIBILITY FOR ADMISSION [24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E] 2-1

A. ELIGIBILITY FACTORS [982.201(b)] 2-1

B. FAMILY COMPOSITION [24 CFR 982.201(c)] 2-2

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353] 2-5

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218] 2-6

TABLE OF CONTENTS

30 E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E] 2-6

31 F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)] 2-7

32 G. TENANT SCREENING [24 CFR 982.307)] 2-7

33 H. CHANGES IN ELIGIBILITY BEFORE EFFECTIVE DATE OF CONTRACT 2-8

34 I. INELIGIBLE FAMILIES 2-8

35 J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)] 2-8

36 Chapter 3 APPLYING FOR ADMISSION [24 CFR 982.204, 24 CFR 983.203, 66FR 3607-
37 9] 3-1

38 A. OVERVIEW OF THE APPLICATION PROCESS 3-4

39 B. OPENING/CLOSING OF PRE-APPLICATION PROCESS [24 CFR 982.206,
40 982.54(d)(1), 24 CFR 982.203(a)(3)&(4)] 3-5

41 C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)] 3-6

42 D. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204 & 66FR 3607] 3-7

43 E. APPLICANT STATUS WHILE ON THE PROJECT-BASED PROGRAM WAITING
44 LIST [24 CFR 982.204, 983.203] 3-8

45 F. TIME OF SELECTION 3-8

46 G. COMPLETION OF A FULL APPLICATION 3-9

47 H. VERIFICATION [24 CFR 982.201(e)] 3-9

48 I. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY [24 CFR
49 982.201] 3-9

50 Chapter 4 MAINTAINING THE WAITING LIST [24 CFR Part 5, Subpart D; 982.54(d)(1);
51 982.204, 982.205, 982.206, 983.203, 66FR 3609] 4-1

52 A. WAITING LIST [24 CFR 982.204] 4-1

53 B. WAITING LIST PREFERENCES [24 CFR 982.207] 4-2

54 C. DENIAL OF PREFERENCE [5.410(C)(3)] 4-3

55 D. CHANGES IN PREFERENCE STATUS 4-3

TABLE OF CONTENTS

56 E. EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(d)(3)] 4-4

57 F. FUNDING FOR SPECIFIED CATEGORY OF WAITING LIST FAMILIES [24 CFR
58 982.204 (e), 206 (a)(b)] 4-5

59 G. INCOME TARGETING 4-8

60 H. INCOME TARGETING ELIGIBILITY [24 CFR 982.207] 4-8

61 I. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)] 4-8

62 Chapter 5 SUBSIDY STANDARDS [24 CFR 982.54(d)(9)] 5-1

63 A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402] 5-1

64 B. EXCEPTIONS TO SUBSIDY STANDARDS [(24 CFR 982.403(a)&(b)] 5-2

65 C. UNIT SIZE SELECTED [24 CFR 982.402(c)] 5-4

66 Chapter 6 FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE
67 DETERMINATION [24 CFR Part 5, Subparts E and F; 982.153, 982.551] 6-1

68 A. INCOME AND ALLOWANCES [24 CFR 5.609] 6-1

69 B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR
70 PERSONS WITH DISABILITIES [24 CFR 5.617; 982.201(b)(3)] 6-2

71 C. MINIMUM RENT [24 CFR 5.630] 6-5

72 D. DEFINITION OF TEMPORARY OR PERMANENT ABSENCE
73 [24 CFR 982.54(d)(10), 982.312, 982.551] 6-7

74 E. AVERAGING INCOME 6-11

75 F. MINIMUM INCOME 6-12

76 G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME
77 [24 CFR 982.54(d)(10)] 6-12

78 H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609] 6-12

79 I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609] 6-12

80 J. LUMP-SUM RECEIPTS [24 CFR 5.609] 6-13

81 K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)] 6-14

TABLE OF CONTENTS

82 L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24
83 CFR 5.603(d)(3)] 6-14

84 M. CHILD CARE EXPENSES [24 CFR 5.603] 6-14

85 N. Amount of expense – Licensed, registered or otherwise regulated
86 childcare providers will provide a signed statement of childcare expenses.
87 The maximum allowance for all other child care is eighty-nine dollars per
88 child, per week MEDICAL EXPENSES [24 CFR 5.609(a)(2), 5.603] 6-15

89 O. PRO-RATION OF ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520] 6-15

90 P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM
91 REQUIREMENTS 6-16

92 Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR
93 982.153, 982.517, 982.514(b)] 6-17

94 Chapter 7 VERIFICATION PROCEDURES [24 CFR Part 5, Subparts B, D, E and F; 24 CFR
95 982.158; 24 CFR 5.617] 7-1

96 A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516] 7-2

97 B. RELEASE OF INFORMATION [24 CFR 5.230] 7-4

98 C. COMPUTER MATCHING 7-4

99 D. ITEMS TO BE VERIFIED [24 CFR 982.516] 7-6

100 E. All utilities that are the tenant's responsibility are operational
101 VERIFICATION OF INCOME [24 CFR 982.516] 7-7

102 F. INCOME FROM ASSETS [24 CFR 982.516] 7-11

103 G. VERIFICATION OF ASSETS 7-12

104 H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR
105 982.516] 7-13

106 I. VERIFYING NON-FINANCIAL FACTORS [24 CFR 5.617(b)(2)] 7-15

107 Chapter 8 VOUCHER ISSUANCE AND BRIEFINGS [24 CFR 982.302] 8-1

108 A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)] 8-1

TABLE OF CONTENTS

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301] 8-1

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW-INCOME OR MINORITY CONCENTRATION [SEMAP Indicator] 8-5

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION 8-5

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313] 8-6

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)] 8-6

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315] 8-7

H. VOUCHER RETENTION [24 CFR 982.315] 8-8

Chapter 9 REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION [24 CFR 982.302] 9-1

A. REQUEST FOR TENANCY APPROVAL [24 CFR 982.302, 982.305(b)] 9-1

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353] 9-2

C. LEASE REVIEW [24 CFR 982.308] 9-2

D. SEPARATE AGREEMENTS 9-4

E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)] 9-5

F. RENT LIMITATIONS [24 CFR 982.507] 9-5

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502] 9-5

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)] 9-5

I. OWNER DISAPPROVAL [24 CFR 982.306] 9-6

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) BEFORE HAP EFFECTIVE DATE 9-6

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)] 9-6

L. PROOF OF OWNERSHIP 9-7

M. CHANGE IN OWNERSHIP 9-7

TABLE OF CONTENTS

Chapter 10 HOUSING QUALITY STANDARDS AND INSPECTIONS [24 CFR 982.401] 10-1

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405] 10-1

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)] 10-2

C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)] 10-2

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)] 10-3

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)] 10-4

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)] 10-4

G. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)] 10-5

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [24 CFR 982.405, 982.453] 10-6

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404] 10-7

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)] 10-8

Chapter 11 OWNER RENTS, RENT REASONABLENESS AND PAYMENT STANDARDS [24 CFR, 982.503, 982.504, 982.505, 982.507] 11-1

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM 11-1

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451] 11-1

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507] 11-2

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503] 11-3

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503] 11-4

F. EXCEPTION PAYMENT STANDARDS 11-6

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [(24 CFR 982.308(g)] 11-6

Chapter 12 RE-EXAMINATIONS [24 CFR, 982.516] 12-1

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405] 12-1

B. ANNUAL RE-EXAMINATION [24 CFR 982.516] 12-1

TABLE OF CONTENTS

159 C. REPORTING INTERIM CHANGES [24 CFR 982.516] 12-4

160 D. OTHER INTERIM REPORTING ISSUES 12-5

161 E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM
162 REQUIREMENTS [24 CFR 5.615] 12-5

163 F. NOTIFICATION OF RESULTS OF RE-EXAMINATION [HUD Notice PIH 98-6] 12-7

164 G. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS [24 CFR
165 982.516(c)] 12-7

166 H. CHANGES IN VOUCHER SIZE BECAUSE OF CHANGES IN FAMILY
167 COMPOSITION [24 CFR 982.516(c)] 12-9

168 I. CONTINUANCE OF ASSISTANCE FOR “MIXED” FAMILIES [24 CFR 5.518] 12-9

169 J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES 12-10

170 Chapter 13 MOVES WITH CONTINUED ASSISTANCE (PORTABILITY) [24 CFR 982.314,
171 982.353, 982.355(a)] 13-1

172 A. ALLOWABLE MOVES 13-1

173 B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)] 13-1

174 C. PROCEDURE FOR MOVES [24 CFR 982.314] 13-2

175 D. PORTABILITY [24 CFR 982.353] 13-2

176 E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355] 13-2

177 F. INCOMING PORTABILITY [24 CFR 982.354, 982.355] 13-3

178 Chapter 14 CONTRACT TERMINATIONS [24 CFR 982.311, 982.314] 14-1

179 A. CONTRACT TERMINATION [24 CFR 982.311] 14-1

180 B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)] 14-1

181 C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310,
182 982.455] 14-1

183 D. TERMINATION OF THE CONTRACT BY PHA [24 CFR 982.404(a), 982.453,
184 982.454, 982.552(a)(3), 982.455] 14-3

TABLE OF CONTENTS

185 Chapter 15 DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 5.902, 5.903, 5.905,
186 982.4, 982.54, 982.552, 982.553] 15-1

187 A. GROUNDS FOR DENIAL OR TERMINATION [24 CFR 982.54, 982.552,
188 982.553 982.455] 15-1

189 B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL
190 ACTIVITY 15-4

191 C. FAMILY OBLIGATIONS [24 CFR 982.551] 15-10

192 D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518] 15-13

193 E. ZERO ASSISTANCE TENANCIES 15-14

194 F. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)] 15-14

195 Chapter 16 OWNER DISAPPROVAL AND RESTRICTION [24 CFR 982.54, 982.453] 16-1

196 A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)] 16-1

197 B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453] 16-2

198 C. CHANGE IN OWNERSHIP 16-2

199 Chapter 17 OWNER OR FAMILY DEBTS TO THE PHA [24 CFR 982.552] 17-1

200 A. REPAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)] 17-1

201 B. DEBTS OWED DUE TO FAMILY ERROR 17-2

202 C. DEBTS DUE TO PROGRAM FRAUD AND ABUSE [24 CFR 982.163] 17-2

203 D. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP 17-2

204 E. GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 982.552 (c)(v-vii)] 17-3

205 F. OWNER DEBTS TO THE PHA [24 CFR 982.453(b)] 17-3

206 G. WRITING OFF DEBTS 17-4

207 Chapter 18 COMPLAINTS AND APPEALS 18-1

208 A. COMPLAINTS TO THE PHA 18-1

TABLE OF CONTENTS

B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554] 18-1

C. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(13)] 18-3

D. SUBMISSION OF ALL MATERIALS TO THE FAIR HEARING OFFICER AS WELL AS THE APPELLANT FOR REVIEW BEFORE THE HEARING WITHIN FIVE BUSINESS DAYS OF THE INFORMAL CONFERENCE 18-7

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E] 18-8

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)] 18-10

Chapter 19 SPECIAL HOUSING TYPES [24 CFR 982.601] 19-1

A. MANUFACTURED HOMES 19-1

B. SPECIAL HOUSING TYPES AS REASONABLE ACCOMMODATION 19-3

Chapter 20 GLOSSARY 20-1

A. ACRONYMS USED IN SUBSIDIZED HOUSING 20-1

B. GLOSSARY OF TERMS USED IN SUBSIDIZED HOUSING 20-3

C. GLOSSARY OF TERMS USED IN THE NON-CITIZENS RULE 20-21

Chapter 21 PROGRAM INTEGRITY ADDENDUM [24 CFR 792.101 to 792.204, 982.54] 21-1

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD 21-1

B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD 21-2

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD 21-3

D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD 21-4

E. OVERPAYMENTS TO OWNERS 21-4

F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD 21-4

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE PHA 21-6

TABLE OF CONTENTS

235 H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW 21-6

236 I. EVALUATION OF THE FINDINGS 21-6

237 J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED 21-6

238 Chapter 22 MEDICAL AND DENTAL ADDENDUM IRS PUBLICATION 502 22-1

239 Page 1 22-2

240 Page 2 22-3

241 Page 3 22-5

242 Page 4 22-7

243 Page 5 22-9

244 Page 6 22-11

245 Page 7 22-13

246 Page 8 22-15

247 Page 9 22-17

248 Page 10 22-19

249 Page 11 22-21

250 Page 12 22-23

251 Page 13 22-25

252 Page 14 22-27

253 Page 15 22-29

254 Page 16 22-31

255 Page 17 22-33

256 Page 18 22-35

257 Page 19 22-37

258 Page 20 22-39

TABLE OF CONTENTS

Page 21 22-41

Page 22 22-43

Page 23 22-44

Page 24 22-46

Page 25 22-48

Page 26 22-50

Page 27 22-52

Page 28 22-54

Page 29 22-56

Page 30 22-58

Page 31 22-60

Page 32 22-62

Page 33 22-64

Chapter 1 STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 program (*now known as the Section 8 Housing Choice Voucher Program*) became law as part of the Housing and Community Development Act of 1974 that re-codified the U. S. Housing Act of 1937. The Housing and Community Development Act has been amended from time to time and its requirements, as they apply to the Section 8 tenant-based assistance program, are described in and implemented through this Administrative Plan.

Administration of the Section 8 Housing Choice Voucher Program (HCV) described herein is the responsibility of the State of Connecticut Department of Social Services (DSS) and its contract administrator, jointly hereafter referred to as the public housing agency (PHA). Administration of the DSS Section 8 Housing Choice Voucher Program shall comply with the Section 8 Housing Choice Voucher regulations of the U. S. Department of Housing and Urban Development (HUD) as well as with all federal, state and local fair housing laws and regulations**.** The Department of Social Services and its contractors comply with the State Code of Ethics as set forth in Conn General Statutes Title 1, Chapter 10, Sections 1-79 through 1-101 inclusive.

Jurisdiction

State law, Section 17b-2 of the Connecticut General Statutes, designates the Department of Social Services has as a public housing agency for the purpose of administering the housing voucher program pursuant to the Housing Act of 1937 in all one-hundred sixty-nine incorporated towns in the state.

A. DEPARTMENT MISSION STATEMENT/OVERVIEW

The State of Connecticut Department of Social Services (DSS) is a statewide public service agency that provides a broad range of services to the elderly, disabled, families and individuals who need assistance in maintaining or achieving their full potential for self-direction, self-reliance and independent living. It administers over ninety legislatively authorized programs and approximately one-third of the state budget. By statute, it is the state agency responsible for administering a number of programs under federal legislation, including the Rehabilitation Act, the Food Stamp Act, the Older Americans Act and the Social Security Act. The department also is designated as a public housing agency for the purposes of administering the Section 8 Housing Choice Voucher (HCV) Program under the federal Housing Act and its mission is to provide safe, decent, affordable housing for eligible Connecticut residents.

The executive management of the department is vested in a Commissioner of Social Services, two Deputy Commissioners and a Chief of Staff. Each of these individuals is responsible for specific functional areas of the agency.

The department is subdivided into a central office and three regional offices with nine sub-regional offices. Within the central office are nineteen organizational units headed by directors

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or other managers reporting to one of the three commissioners or the chief of staff. By statute, there is a statewide advisory council. The department has approximately 1,835 employees and had expenditures totaling over six billion dollars in state general fund appropriates and another three-hundred million dollars in direct federal grant funds.

The department administers most of its programs through its regional and sub-regional offices located throughout the state. The department's programs and services are available in its twelve regional and sub-regional offices, with central office support. Many services funded by the department are available at community-based not-for-profit and faith-based agencies that are under contract to the department. Many of the services provided by the department are available via mail or telephone. The department also contracts with some for-profit providers to operate some of its programs.

Within the department, the Economic Support Group in the Division of Integrated Services is authorized to administer the HCV Program. In addition to the HCV program, the group maintains oversight of the Section 8 Moderate Rehabilitation Program, the state-funded Rental Assistance Program (RAP) that has a significant commitment to supportive housing.

In the 2011 legislative session, the Governor proposed and the General Assembly adopted sweeping changes to the Executive Branch organization. Included in those changes was the move of all the state's housing programs to the Department of Economic and Community Development (DECD). In the 2012 session, the General Assembly revised the 2011 legislation with respect to housing programs creating a new Department of Housing and a study group to determine the housing and housing-related programs to move to that new department. The study group's report was submitted to the General Assembly at the start of the 2013 session. The recommendations of the study group included transferring the department's housing programs including department's federal portfolio to the new Department of Housing.

B. **LOCAL GOALS [24 CFR 982.1]**

The Section 8 program is designed to achieve these major objectives:

1. To provide decent, safe and sanitary housing for very low-income families while maintaining their rent payments at an affordable level.

2. To ensure that all units meet housing quality standards and those families pay fair and reasonable rents.

3. To promote fair housing and the opportunity for very low-income families of all backgrounds to experience freedom of housing choice.

To promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.In addition, the PHA has the following goals for the program:

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1. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.

2. To encourage the self-sufficiency of participating families.

3. To create positive public awareness and expand the level of support among families, owners and the community in accomplishing the PHA's mission.

4. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.

5. To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan. The Housing Choice Voucher Program was implemented as of October 1, 1999. The PHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this plan, HUD regulations will have precedence. The original plan and any changes must be approved by the DSS Deputy Commissioner of Administration, the pertinent sections included in the Agency Plan and a copy provided to HUD.

Applicable regulations include:

1. 24 CFR Part 5, General Program Requirements

2. 24 CFR Part 8, Nondiscrimination Based on Handicap in Federally Assisted Programs

3. 24 CFR Part 982, Section 8 Tenant-Based Assistance

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(21)]

All expenditures from the administrative fee reserve will be approved by the Department of Social Services Deputy Commissioner of Administration and made in accordance with the approved budget.

E. RULES AND REGULATIONS [24 CFR 982.52]

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

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F. TERMINOLOGY

The State of Connecticut Department of Social Services and its contract administrator are referred to as the "PHA" or "public housing agency" throughout this document.

1. "Family" is used interchangeably with the words "applicant" or "participant" and can refer to a single person family.

2. "Tenant" is used to refer to participants in terms of their relation to owners.

3. "Disability" is used where "handicap" was formerly used.

4. "Non-citizens rule" refers to the regulation effective June 19, 1995 restricting assistance to U. S. citizens and eligible immigrants.

5. The Section 8 program also is known as the Housing Choice Voucher (HCV) Program.

6. "HQS" means the housing quality standards required by regulations and enhanced by the PHA.

7. "Failure to provide" refers to all requirements in the first Family Obligation. See Chapter 15, "Denial or Termination of Assistance."

8. "Merger date" refers to October 1, 1999 that is the effective date of the merging of the Section 8 Certificate and Voucher program into the Housing Choice Voucher Program.

See Glossary for other terminology.

G. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

It is the policy of the public housing agency to comply fully with all federal, state and local nondiscrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 program based on race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability or sexual orientation. The PHA will make every effort to provide training and materials to its staff to enable them to inform owners and tenants of State Statute 46a-11F (*discrimination based on lawful sources of income*) and 46a-7 (*discrimination based on physical or mental disability*).

To further its commitment to full compliance with applicable civil rights laws, the PHA will provide federal/state/local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session and all applicable fair

DRAFT

housing information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request at the front desk.

All PHA staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair housing posters are posted throughout PHA offices, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25 and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's offices in such a manner as to be readable easily from a wheelchair.

The PHA's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDD/TTY telephone service provider.

The PHA will attempt to remedy discrimination complaints made against the PHA.

The PHA will provide a copy of a discrimination complaint form to the complainant and provide the family with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO) including the provision of the toll free numbers for the Housing Discrimination Hotline (800)-669-9777 and Federal Relay Service at (800) 887-8339 or www.gsa.gov/fedrelay.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services.

A person with a disability must request a specific change to a policy or practice as an accommodation of their disability before the PHA will treat a person differently than anyone else. The PHA's policies and practices will provide persons with disabilities with reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The PHA will provide information concerning reasonable accommodations at the initial tenant briefing and again at each annual re-examination. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities, and is

DRAFT

applicable to all situations described in this administrative plan, including, but not limited to:

1. when a person initiates contact with the PHA, when the PHA initiates contact with a person (*including when a person applies*), and

2. when the PHA schedules or reschedules appointments of any kind.

A person requesting a reasonable accommodation must meet the definition of a person with a disability, as "disability" is defined in the Americans with Disabilities Act ("ADA"):

1. A physical or mental impairment that substantially limits one or more of the major life activities of the individual;

2. A record of such an impairment; or

3. Being regarded as having such an impairment.

[Note: This is not the same as the HUD definition used for purposes of determining allowances.]

The term "physical or mental impairment" includes alcoholism and drug addiction, other than addiction caused by current, illegal use of a controlled substance. A person who has successfully completed a supervised drug rehabilitation program or has otherwise been successfully rehabilitated and is no longer engaging in the illegal use of drugs, or is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs, is covered under the ADA. Current drug users are not covered.

A person requesting a reasonable accommodation should explain what type of accommodation the person is requesting and, if the need for the accommodation is not readily apparent or not known to the PHA, explain the relationship between the requested accommodation and the disability. A person with a disability that is not readily apparent must provide the PHA with reliable information that verifies that the person meets the definition of disabled, describes the needed accommodation, and shows the relationship between the person's disability and the need for the requested accommodation. The PHA will provide forms to assist a person making a reasonable accommodation request to verify such information, although the person is not required to use the forms to make the request. The PHA will keep all information relevant to a reasonable accommodation request confidential.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden or fundamentally alters the nature of the provider's operations, the PHA will deny the request and discuss with the person an alternate accommodation its believes will meet the need of the person.

The PHA will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

DRAFT

A person with a disability may identify a designee to provide information to the PHA.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

Applying for Admission

All persons who wish to apply for any of the PHA's programs must submit a pre-application via written format, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a person with a disability requests an accommodation. Applicants then will be interviewed by PHA staff to review the information on the full application form. Verification of disability, as it relates to 504, Fair Housing, or ADA reasonable accommodation, will be requested at this time. The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

I. TRANSLATION OF DOCUMENTS

The PHA has bilingual staff to assist non-English speaking families in Spanish and other languages spoken in the communities. Documents will be translated into Spanish and other languages as determined by the PHA.

In determining whether it is feasible to provide translation of documents written in English into other languages, the PHA will consider the following factors:

1. Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.

2. The availability of local organizations to provide translation services to non-English speaking families.

3. Availability of bi-lingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the goals and objectives of the following HUD SEMAP indicators:

1. Selection from the Waiting List

DRAFT

2. Reasonable Rent

3. Determination of Adjusted Income

4. Utility Allowance Schedule

5. HQS Quality Control Inspections

6. HQS Enforcement

7. Expanding Housing Opportunities

8. Payment Standards

9. Annual Re-examinations

10. Correct Tenant Rent Calculations

11. Pre-Contract HQS Inspections

12. Annual HQS Inspections

13. Lease-up

14. Family Self-Sufficiency Enrollment and Escrow Account Balances

15. Bonus Indicator (*de-concentration*)

Supervisory quality control reviews will be performed by a PHA supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

1. Selection from the waiting list

2. Rent reasonableness

3. Determination of adjusted income

4. HQS enforcement

5. HQS quality control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

DRAFT

K. RECORDS FOR MONITORING PHA PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the PHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the PHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

In addition to the required SEMAP documentation, supervisory staff audits the following functions:

1. Not less than five percent of reexaminations.
2. Not less than five percent of new applications.
3. Not less than five percent of claims processed.

Family File

To facilitate monitoring and program auditing the PHA will maintain a file for each family when the family is selected from the waiting list and keep the file active until the family is no longer a program participant. The inactive file should be kept for three years. The file should contain the following:

1. Application forms
2. Income verification forms
3. A copy of each voucher issued
4. Copies of relevant correspondence
5. All requests for lease approval
6. A copy of all approved leases
7. All rent reasonableness determinations
8. All unit inspection forms
9. A copy of each HAP contract executed by PHA and owner
10. Interim re-determination forms and related records
11. Notification of lease disapproval, if applicable

DRAFT

12. Records concerning denial of assistance or termination of assistance

13. All PHA records and determinations concerning informal reviews or hearings

14. Welfare-to-Work participation agreement (*for Welfare-to-Work participants only*)

15. DCF referral (*for Family Unification Participants only*)

16. Social Security number verification

17. Non-citizen verification

18. Proof of legal identity for all family members

L. PRIVACY RIGHTS [24 CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD Form 9886, Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The PHA's policy regarding release of information is in accordance with state and local laws that may restrict the release of family information.

All information that would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked “confidential”. The personal information in this folder must not be released except on an “as needed” basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the PHA.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location that is only accessible by authorized staff.

PHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

All files must be signed for when removed from the secured file storage area.

M. FAMILY OUTREACH

The PHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the PHA's waiting list is open, the PHA will publicize the availability and nature of housing assistance for very low-income families in newspapers of general circulation, minority media, the agency

DRAFT

website and by other suitable means. Notices will also be provided in Spanish and other languages spoken in the communities.

To reach persons who cannot read the newspapers; the PHA will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel. The PHA will also utilize public service announcements.

The PHA will communicate the status of housing availability to other service providers in the community; advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

N. OWNER OUTREACH [24 CFR 982.54(d)(5)].

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The PHA maintains a list of interested owners for the Section 8 program and updates this list at least annually. When listings from owners are received, they will be compiled by the PHA staff by bedroom size.

The PHA will maintain lists of available housing submitted by owners in all neighborhoods within the PHA's jurisdiction to ensure greater mobility and housing choice to very low-income households. The lists of owners will be provided at the front desk and provided at briefings.

The staff of the PHA initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The PHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

O. DISCRETION TO OPERATE A PROJECT-BASED VOUCHER (PBV) PROGRAM [24 CFR 983.5 (c), 983.6 (a), 983.51(b)(d)

The PHA will exercise its discretionary authority to operate a project-based component. The option to set-aside up to twenty percent of budget authority (*983.6(a)*) will permit the PHA to develop and maintain long-term safe, decent and affordable housing that is accessible to its Section 8 applicants and program participants. The PHA has not set a specific goal for its budget authority that it will dedicate to its PBV program; however, in any given calendar year, the PHA reserves the right to utilize up to twenty percent of its budget authority for its PBV program.

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Selection of PBV Owner Proposals

The final rule establishes two methods that a PHA can use to select owner proposals. These methods are found at 983.51(b)(1) and (2). The PHA will utilize the following PBV proposal selection methods:

1. 983.51(b)(1) permits the PHA publicly to issue a competitive request for PBV proposals. The PHA, at its discretion, will make vouchers available in support of the Connecticut's Interagency Supportive Housing Initiative. RFPs will be issued by the Connecticut Housing Finance Authority (CHFA) on behalf of the partnering agencies for capital funds, service dollars and rent subsidies. Proposals will be reviewed and selected by representatives from participating agencies. CHFA will notify successful applicants and public announcement will be done by the partner agencies on their respective websites.

2. 983.51(b)(2) permits the PHA to select proposals that have successfully competed for housing assistance under a federal, state or local government housing assistance, community development or supportive services program, provided the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

At its option and on a case-by-case basis, the PHA may entertain requests to attach PBV assistance to units previously selected by a non-PBV competition, in accordance with the requirement of 983.51(b)(2)), under the following circumstances:

1. Adequate PBV voucher and budget authority is projected to be available when the units are ready for occupancy;

2. The request meets a compelling need and is otherwise consistent with the PHA's long-term affordable housing goals;

3. The project is otherwise in compliance with all HUD and the PHA's PBV requirements.

The owner/project sponsor must initiate a written request for PBV assistance to the PHA accompanied by a letter from the "selection agency" that competitively selected the project for housing assistance under a federal, state or local government program. This letter, submitted on the "selection agency's" letterhead and signed by an authorized official, must include the following information:

1. Date of the proposal selection;

2. A certification that the proposal was competitively selected by the agency in full compliance with all publicly advertised selection requirements;

DRAFT

3. A statement that proposal selection did not involve any consideration that the project would receive PBV assistance.

4. A copy of the NOFA or other similar solicitation for affordable housing assistance that the owner/project sponsor responded to; and,

5. A description of the housing program that the applicant successfully completed, noting any special deed restrictions and/or special considerations such as tenant selection preferences.

When the PHA receives the "selection agency" letter, it will request that the owner/project sponsor fill out a PHA PBV application and subsequently determine if a reservation of PBV can and will be made.

Public notice of PHA PBV owner/project sponsor selection (983.51(d))

Once the PHA has received all required HUD approvals to proceed to AHAP or HAP and all other program requirements have been met, the PHA will publicly announce the selection of owner proposals on its website at http://www.ct.gov/dss/site/default.asp.

DRAFT

Chapter 2 ELIGIBILITY FOR ADMISSION [24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

This chapter defines both HUD's and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(b)]

The PHA accepts applications only from families whose head or spouse is at least 18 years of age or is an emancipated minor under state law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

The HUD eligibility criteria are:

1. An applicant must be a "family"
2. An applicant must be within the appropriate income limits
3. An applicant must furnish Social Security numbers for all family members age six and older
4. An applicant must furnish evidence of citizenship or eligible immigrant status and verification where required
5. An applicant must furnish proof of legal identity

At least one member of the applicant family must either be a U. S. citizen or have eligible immigration status before the PHA may provide any financial assistance.

Reasons for denial of admission are addressed in Chapter 15 of this Administrative Plan, "Denial or Termination of Assistance." These reasons for denial constitute additional admission criteria.

The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of citizenship or eligible immigrant status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher, unless the

DRAFT

PHA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

The applicant must qualify as a family. A family may be a single person or a group of persons.

A family includes a family with a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together or one or more elderly or disabled persons living with one or more live-in aides is a family. The PHA determines if any other group of persons qualifies as a family.

A single person family may be:

1. An elderly person.

2. A displaced person.

3. A person with a disability.

   (*Individuals may not be considered disabled for eligibility purposes solely based on any drug or alcohol dependence*.)

4. Any other single person.

5. A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home and is not intended to enlarge artificially the space available for other family members.

A family also includes two or more elderly or disabled persons living together or one or more elderly, near-elderly or disabled persons living with one or more live-in aides.

Head of Household

The head of household is an adult member of the household, designated by the family as head, who is wholly or partially responsible for paying the rent and has the legal capacity to enter into a lease under state law**.** Emancipated minors who qualify under state law will be recognized as head of household.

Spouse or Head

Spouse means the husband or wife of the head.

For proper application of the non-citizens rule, the definition of spouse is the marriage partner who would need to be divorced to dissolve the relationship. It includes the partner in a

DRAFT

common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others or co-heads.

Co-Head

An individual in the household who is equally responsible for the lease with the head of household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Minors who are emancipated under state law may be designated as a co-head.

Live-in Attendants

A family may include a live-in aide provided that such live-in aide:

1. Is determined by the PHA to be essential to the care and well-being of an elderly person, a near-elderly person (*i.e., aged 50-61*) or a person with disabilities,

2. Is not obligated for the support of the person(s) and

3. Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

1. Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

2. Live-in aides are exempt from the non-citizen rule requirements.

3. Live-in aides will not be considered as a remaining member of the tenant family.

Relatives are not excluded automatically from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A live-in aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near elderly (*i.e., aged 50-61*) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with 24 CFR Part 8 and the reasonable accommodations section in Chapter 1 of this Administrative Plan, "Statement of Policies and Objectives."

Verification must include the hours during which the care will be provided.

DRAFT

[24 CFR 982.316] At any time, the PHA may refuse to approve a particular person as a live-in aide or may withdraw such approval if:

1. The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

2. The person commits drug-related criminal activity or violent criminal activity; or

3. The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Split Households Before Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation and the new families both claim the same placement on the waiting list and there is no court determination, the PHA will make the decision taking into consideration the following factors:

1. Which family member applied as head of household.

2. Which family unit retains the children or any disabled or elderly members.

3. Restrictions that were in place at the time the family applied.

4. Role of domestic violence or criminal activity in the split.

5. Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the PHA.

Multiple Families in the Same Household

When families apply that consist of two families living together (*such as a mother and father and a daughter with her own husband or children*), if they apply as a family unit, they will be treated as a family unit.

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least fifty-one percent of the time will be considered members of the household. "Fifty-one percent of the time" is defined as one-hundred eight-three calendar days that do not have to be consecutive.

DRAFT

When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

In order to be eligible for assistance, an applicant must have an annual income at the time of admission that does not exceed the very low-income limits for occupancy established by HUD.

To be income-eligible the family may be under the low-income limit in any of the following categories: [24 CFR 982.201 (b)]

1. A very low-income family.

2. A low-income family that is continuously assisted under the 1937 Housing Act.

   An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within one-hundred twenty calendar days of voucher issuance. Programs include public housing, all Section 8 programs and all Section 23 programs.

3. A low-income family physically displaced by rental rehabilitation activity under 24 CFR Part 511.

4. A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

5. A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173.

6. A low-income family displaced because of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

7. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

To determine if the family is income-eligible, the PHA compares the annual income of the family to the applicable income limit for the family's size.

Families whose annual income exceeds the income limit will be denied admission and offered an informal review.

For admission to the program (*initial lease-up*), seventy-five percent of the families must be within the extremely low-income limit for the jurisdiction of the receiving PHA that they want to live.

DRAFT

Portability – for initial lease-up, families who exercise portability must be within the very low-income limit for the jurisdiction of the receiving PHA in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security numbers for all family members age 6 and older before admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security number must sign a certification that they have never been issued a Social Security number.

Persons who disclose their Social Security number but cannot provide verification must sign a certification and provide verification within sixty business days. Elderly persons must provide verification within one-hundred twenty calendar days.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U. S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated based on the number of citizens and eligible immigrants to the number in the household. A family may request a hearing if they contest their determination as a mixed family.

All members ineligible. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. As defined by HUD in the non-citizen regulations at 24 CFR 5.522, these persons are not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

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F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

The PHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

The family must have not violated any family obligation during the last year of previous participation in the Section 8 program before final eligibility determination.

The PHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Section 8 program.

No family member may have been evicted from public housing for any reason during the last three years before final eligibility determination.

The PHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in Chapter 15 of this Administrative Plan, "Denial or Termination of Assistance."

If any applicant deliberately misrepresents the information that eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/ record to the proper authorities for appropriate disposition.

G. TENANT SCREENING [24 CFR 982.307)]

The PHA will take into consideration any of the criteria for admission described in Chapter 15 of this Administrative Plan, "Denial or Termination of Assistance."

The PHA will not screen family behavior or suitability for tenancy. The PHA will not be liable or responsible to the owner or other persons for the family's behavior or the conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as [24 CFR 082.307(a)(3)]

1. Payment of rent and utility bills
2. Caring for a unit and premises
3. Respecting the rights of other residents to the peaceful enjoyment of their housing

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4. Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and

5. Sexual Offender subject to state or federal registration

6. Compliance with other essential conditions of tenancy.

The PHA will give the owner**:**

1. The family's current and prior address as shown in the PHA's records; and

2. The name and address (*if known by the PHA*) of the owner at the family's current and prior addresses.

The PHA will advise families how to file a complaint if they believe they have been discriminated against by an owner. The PHA will advise the family to make a fair housing complaint. The PHA may also report the owner to HUD (*Fair Housing/Equal Opportunity*) or the local fair housing organization.

H. CHANGES IN ELIGIBILITY BEFORE EFFECTIVE DATE OF CONTRACT

Changes that occur during the period between placement on the waiting list and issuance of a voucher may affect the family's eligibility or share of the rental payment.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review or an informal hearing if they were denied due to non-citizen status. See Chapter 18 of this Administrative Plan, "Complaints and Appeals," for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admissions to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

1. Discrimination because the members of the family are unwed parents, recipients of public assistance or children born out of wedlock.

2. Discrimination because a family includes children.

3. Whether a family decides to participate in a family self-sufficiency (FSS) program; or

4. Other reasons as listed in Chapter 1 of this Administrative Plan, "Statement of Policies and Objectives," under the Fair Housing and Reasonable Accommodations section.

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Chapter 3 APPLYING FOR ADMISSION [24 CFR 982.204, 24 CFR 983.203, 66FR 3607-9]

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, placement or denial of placement on the waiting list and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this plan.

PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE and STALKING [24 CFR Part 5, Subpart L]

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

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

Definitions [24 CFR 5.2003]

As used in VAWA:

1. The term *bifurcate* means, with respect to a public housing or a Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

2. The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

3. The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the

DRAFT

existence of such a relationship shall be determined based on a consideration of the following factors:

a. The length of the relationship

b. The type of relationship

c. The frequency of interaction between the persons involved in the relationship

4. The term "stalking" means:

a. To follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate; or

b. To place under surveillance with the intent to kill, injure, harass or intimidate another person; and

c. In the course of or because of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of or serious bodily injury to or to cause substantial emotional harm to

1) that person,

2) a member of the immediate family of that person or

3) the spouse or intimate partner of that person.

5. The term "immediate family member" means, with respect to a person:

a. A spouse, parent, brother or sister or child of that person or an individual to whom that person stands in the position or place of a parent; or

b. Any other person living in the household of that person and related to that person by blood and marriage.

Notification

PHA Policy

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

1. A statement of the protection against denial provided by VAWA

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2. A description of PHA confidentiality requirements

3. A request that an applicant wishing to claim this protection submit to the PHA documentation meeting the specifications below with her or his request for an informal review

Documentation

Victim Documentation

PHA Policy

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

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

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

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

Perpetrator Documentation

PHA Policy

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

1. A signed statement

    a. requesting that the perpetrator be removed from the application and

    b. certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

DRAFT

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

Time Frame for Submitting Documentation

PHA Policy

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

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

All information provided to the PHA regarding domestic violence, dating violence or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure

1. is requested or consented to by the individual in writing,

2. is required for use in an eviction proceeding or

3. is otherwise required by applicable law.

PHA Policy

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

A. OVERVIEW OF THE APPLICATION PROCESS

The PHA has two Section 8 waiting list types: one for admission to the tenant-based rental assistance program (*referred to as the "tenant-based program"*) and site-based for admission to the project-based rental assistance program (*referred to as the "project-based program"*).

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The purpose of application taking is to permit the PHA to gather information and determine placement on either or both of these waiting lists. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any of the PHA's programs must complete a written pre-application form when application taking is open, i.e., when applications are being accepted. Pre-applications will be made available in an accessible format upon request from a person with a disability.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to do so by completing an application.

Applications will be made available to interested families upon request.

The application process will involve two phases. The first is the "initial" application for assistance (*referred to as a pre-application*). This first phase results in the family's placement on the waiting list.

The second phase is the "final determination of eligibility" (*referred as the full application*). The full application takes place when the family reaches the top of the waiting list. At this time, the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF PRE-APPLICATION PROCESS [24 CFR 982.206, 982.54(d)(1), 24 CFR 982.203(a)(3)&(4)]

Opening the Waiting list

The PHA will utilize the following procedures for opening the waiting list.

When the PHA opens the waiting list, the PHA will advertise through public notice in newspapers, minority publications, the agency website and other media entities the location(s) and program(s) that pre-applications are being accepted.

The notice will contain:

1. The locations where families may access pre-application forms as well as where and when to mail the application.

2. The programs that pre-applications will be taken.

3. A brief description of the programs.

4. Limitations, if any, on who may apply.

5. Opening and close date for acceptance of pre-applications.

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The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and telephone number, how to submit a pre-application and information on eligibility requirements.

If the waiting list is open, any family asking to be placed on the waiting list for the Section 8 tenant-based program or a waiting list for the Section 8 project-based program or both, will be given the opportunity to complete a pre-application.

If the waiting list is open, the PHA will accept pre-applications from families. However, they may not be placed on the waiting list if there is good cause, such as denial of assistance because of action or inaction by members of the family for the grounds stated in Chapter 15 of this Administrative Plan, "Denial or Termination of Assistance."

Closing the Waiting List

The PHA may stop accepting applications for the tenant-based program, if there are enough applicants to fill anticipated openings for the next twelve months. The PHA may stop accepting applications for a project-based site if there are enough applicants to fill immediate openings. The waiting lists may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the last date pre-applications will be accepted in the same notice that advertises the opening of the list.

When the period for accepting applications is over, the PHA will add the new applicants to both tenant based and project based lists using the following method:

1. As the pre-applications are received by the PHA, they will be data-entered, with the date and time of the pre-application recorded. Preference status will be indicated when appropriate for a project-based list.

2. Once the list is closed and all the pre-applications have been data-entered, a computer

3. Lottery will be completed to determine placement order on the tenant based waiting list.

4. Applicants will be placed on the list after applicants who were on the list previously. Project based preferences may allow an applicant to move to the top of a specific site's waiting list.

C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The PHA will utilize a preliminary-application form (*pre-application*). The information is to be filled out by the applicant whenever possible. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format. Translations will be provided for non-English speaking applicants, where possible.

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The purpose of the pre-application is to permit the PHA to assess family eligibility or ineligibility in a preliminary fashion and to determine placement on the waiting list. The pre-application will contain questions designed to obtain the following information:

1. Applicant name and number of family members
2. Street address and telephone number(s)
3. Mailing address (*if post office box or other permanent address*)
4. Amount(s) of income received by household members
5. Social Security numbers
6. Race/ethnicity
7. Request for specific accommodation needed to fully utilize program and services

Duplicate pre-applications, including pre-applications from a segment of an applicant household, will not be accepted.

The information on the pre-application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants are required to inform the PHA in writing of changes in address. Applicants are also required to respond to requests from the PHA to update information on their pre-application and to determine their continued interest in assistance.

D. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204 & 66FR 3607]

After a preliminary review of the pre-application, if the family is determined to be eligible for the tenant-based program they will be notified in writing (*or in an accessible format upon request, as a reasonable accommodation*).

The notice will contain the approximate date that assistance may be offered and will further explanation that the estimated date is subject to factors such as turnover and available funding.

This written notification of preliminary eligibility will be:

1. mailed to the applicant by first class mail or
2. distributed to the applicant in the manner requested as a specific accommodation.

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E. APPLICANT STATUS WHILE ON THE PROJECT-BASED PROGRAM WAITING LIST [24 CFR 982.204, 983.203]

After a preliminary review of the pre-application, if the family is determined to be eligible for the project-based program they will be notified in writing (*or in an accessible format upon request, as a reasonable accommodation*).

The notice will inform the applicant of documentation that is required to demonstrate eligibility for preferences under the particular project-based program site.

This written notification of preliminary eligibility will be:

1. mailed to the applicant by first class mail or

2. distributed to the applicant in the manner requested as a specific accommodation.

F. TIME OF SELECTION

Tenant-based program [24 CFR 982.204]

When funding is available, families will be selected from the waiting list in their determined sequence regardless of family size, subject to income targeting requirements. When there is insufficient funding available for the family at the top of the list, the PHA will not admit any other applicant until funding is available for the first applicant.

Based on the PHA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility pool. Selection from the pool will be based on waiting list sequence**/**completion of verification**.**

Project-based program [24 CFR 983.203; 66FR 3609]

When the owner of dwelling units receiving project-based assistance notifies the PHA of a vacancy in one or more assisted dwelling units, the PHA will give permission to the project to advertise (*content and format of advertisement to be approved by the PHA*) that they are accepting applications. Applications received will be forwarded to the PHA to be added to the site's waiting list. The PHA will refer to the owner one or more families of the appropriate size on the project-based program waiting list in their determined sequence, subject to income targeting requirements. Before making the referral, the PHA will evaluate the family's housing needs and determine their eligibility for Section 8 housing assistance in accordance with Sections G, H and I below. A family becomes a participant in the project-based program when the family and the owner execute a lease for a unit with project-based assistance. A family that refuses the offer of an assisted unit or that is rejected for admission to an assisted unit by an owner maintains its place on the waiting list as though no offer had been made. The owner of assisted dwelling units is responsible for the screening and selection of tenants in accordance with the owner's written tenant selection procedures.

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G. COMPLETION OF A FULL APPLICATION

Applicants will be required to complete a full application in their own handwriting (*unless assistance is needed or a request for accommodation is made by a person with a disability*). Applicants will then be interviewed by PHA staff to review the information on the full application form.

The full application will be mailed to the applicant (*or communicated as requested, as an accommodation to a person with a disability*) to complete in advance when the applicant is invited to attend the interview.

H. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures outlined in Chapter 7 of this Administrative Plan, "Verification Procedures." Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors and other pertinent information will be verified.

I. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY [24 CFR 982.201]

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA and the current eligibility criteria in effect. If the family is determined to be eligible, the PHA will mail the family a notification of eligibility. A briefing will be scheduled in order to issue a voucher to the family and to orient them to the housing program.

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Chapter 4 MAINTAINING THE WAITING LIST [24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206, 983.203, 66FR 3609]

INTRODUCTION

It is the PHA's objective to ensure that families are placed on the waiting list in the proper order and are selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

By maintaining an accurate waiting list, the PHA will be able to perform the activities that will ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

The PHA uses two waiting lists for admission to its Section 8 tenant-based assistance program. Persons eligible for the Housing Choice Voucher Program or the Mainstream Housing Opportunities Program are maintained on one list. The other list is for families who have been referred to the Family Unification Program (FUP) by the State of Connecticut Department of Children and Families (DCF). The DCF referral form serves the same purpose in the FUP as the pre-application form serves in the other tenant-based programs.

The PHA maintains separate site-specific waiting lists for admission to its Section 8 project-based assistance program.

Except for special admissions, applicants will be selected from the PHA waiting list in accordance with policies defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

1. Applicant name
2. Racial or ethnic designation of the head of household
3. Targeted program and preferences qualifications
4. Annual (*gross*) family income
5. Number of persons in family

The waiting list will be maintained in accordance with the following guidelines:

1. The application will be a permanent file.

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2. All applicants must meet very low-income eligibility requirements as established by HUD. Any exceptions to these requirements, other than those outlined in chapter 2 of this Administrative Plan, "Eligibility for Admission," must have been approved previously by the HUD field office.

Special Admissions [24 CFR 982.54(d)(e), 982.203]

Applicants, who are admitted under special admissions, rather than from the waiting list, are identified by codes in the automated system and are not maintained on separate lists.

B. WAITING LIST PREFERENCES [24 CFR 982.207]

Tenant-based program preferences:

Pre-applications for admission to the tenant-based program will be selected in lottery-determined order, with the following exception:

The family unification preference

Families who qualify for the family unification preference are families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or in the delay of discharge of a child or children to the family from out-of home care, will have their referral/pre-application forms from the Department of Children and Families (DCF) to the PHA date-stamped and time-stamped and placed on the Family Unification Program (FUP) waiting list in chronological order and the PHA will determine if the families are eligible for Section 8 rental assistance.

If a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or in the delay of discharge of a child or children to the family from out-of home care is determined eligible by the PHA to receive a HCV, the family will be invited to participate in the program in accordance with HUD regulations and other requirements and with policies stated in the DSS administrative plan.

All persons interested in utilizing this preference must be referred to the PHA by DCF. The PHA will accept referrals/pre-applications only from DCF staff. DCF will designate gatekeepers to identify and refer eligible families to the PHA. The PHA will determine if the families are eligible for Section 8 rental assistance.

This preference will enhance the State of Connecticut's continuing efforts to maintain intact families and to provide decent, safe and sanitary housing for families. The Section 8 FUP waiting list will remain open for this preference and the PHA will accept referrals/pre-applications until further notice. The FUP waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

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Project-based program preferences:

Applicants for admission to the project-based program will be selected in chronological order, subject to the availability of assisted dwelling units that are appropriate to the size of the family. Priority will be given to families who qualify for the following preferences:

1. **The supportive housing preference**. This preference is given to an applicant on the PBV-based voucher project waiting list who qualifies for the targeted CT Department of Mental Health and Addiction (DMHAS) funded supportive services linked through the Supportive Housing RFP process to the PBV-funded supportive housing units.

2. **Displaced families' preference**. If a unit to be placed under contract by DSS as part the department's agreement to project-based HCVs in support of the Interagency Pilots Supportive Housing Initiative is occupied by an eligible low-income family on the proposal selection date, the in-place family will be offered the opportunity to lease an appropriately sized project-based assisted unit that project.

The PHA may place a family referred by an owner of assisted dwelling units on its waiting list, subject to the provisions in Chapter 3 of this Administrative Plan, "Applicant Status While on the Project-Based Waiting List."

C. DENIAL OF PREFERENCE [5.410(C)(3)]

No preference of any kind will be given to an applicant if a member of the applicant's family was evicted during the past three years from housing assisted under the 1937 Housing Act Program because of drug-related criminal activity, except that the PHA may give an admissions preference if the PHA determines that the evicted person:

1. has successfully completed a rehabilitation program approved by the PHA or

2. clearly did not participate in or know about the drug-related criminal activity or

3. no longer participates in any drug-related criminal activity.

D. CHANGES IN PREFERENCE STATUS

Occasionally applicants on the waiting list who did not qualify for a preference at the time they applied for rental assistance will experience a change in circumstances that now qualifies them for a preference. In such cases:

1. It is the applicant's responsibility to contact the PHA.

2. Applicants certifying that they now qualify for a preference will be re-positioned on the waiting list in accordance with their preference and their date and time of application.

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3. Applicants will then be informed in writing of their change in status and place on the waiting list.

E. EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(d)(3)]

If HUD awards the PHA program funding that is targeted for families living in specified units, the PHA will admit these families under a special admission procedure and will use the assistance for the families living in these units.

These special admission families will be admitted outside of the regular waiting list process. They are not required to be on the waiting lists. The PHA will maintain separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

1. A family displaced because of demolition or disposition of a public or Indian housing project;

2. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

3. For housing covered by the Low-Income Housing Preservation and Resident Home ownership Act of 1990 (*41 U.S.C. 4101 et seq.*);

4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term;

5. A non-purchasing family residing in a project subject to a homeownership program (*under 24 CFR 248.173*);

6. A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (*as provided for in 24 CFR 248.165*); or

7. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

In addition, the PHA may select the following families for admission to the project-based program without prior placement on the waiting list:

In-place existing occupants of dwelling units selected by the PHA to receive project-based rental assistance and who are eligible for Section 8 assistance. [24 CFR 983.203(6)(b)]

The PHA may select the following families for tenant-based rental assistance without prior placement on the waiting list:

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A family that moves after twelve months of occupancy (*in good standing*) from a dwelling unit assisted under the PHA project-based program. If tenant-based rental assistance is not available at the time that the family moves, the family will receive priority for the next available tenant-based voucher. [66FR 3609]

F. FUNDING FOR SPECIFIED CATEGORY OF WAITING LIST FAMILIES [24 CFR 982.204 (e), 206 (a)(b)]

When HUD awards funding for a specified category of families meeting specific requirements, the waiting list is searched for eligible families. If there is not a sufficient number of eligible families on the waiting list, the waiting list will be opened to applicants eligible for the specified category. When the pre-application is submitted to the PHA, it will be date and time stamped to determine placement order on the waiting list.

Applicants, who meet the criteria for a specified category and are admitted under targeted funding and who are not identified as a special admission, are identified by codes in the automated system and, except for FUP families, are not maintained on separate waiting lists.

The PHA has the following programs funded for specified categories of waiting list families:

1. Certain Developments Program for Non-Elderly Persons with Disabilities
2. Family Unification Program
3. Mainstream Housing Opportunities Program for Persons with Disabilities
4. Veterans Affairs Supportive Housing

Family Unification Program

Program Description and Referrals

Through the linkage of DSS and the Department of Children and Families (DCF)**,** the Family Unification Program (FUP**)** will provide a comprehensive array of services to families that have been identified and referred to the PHA by DCF. DCF will refer families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or in the delay of discharge of a child or children to the family from out-of home care and the PHA will determine if the families are eligible for Section 8 rental assistance.

Waiting List and Tenant Selection Process

A separate waiting list will be maintained for the Family Unification Program. Referrals/pre-applications will be placed at the bottom of the Family Unification Program waiting list with the date and time of receipt noted.

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When an FUP voucher becomes available, a family will be selected from the list. After the family is determined eligible to receive a Section 8 subsidy, the family will be admitted to participate in the program in accordance with HUD regulations and other requirements and with policies stated in the DSS administrative plan.

The PHA's Section 8 FUP waiting list is open and will accept referrals/pre-applications until further notice. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will regularly review the extent of need for FUP vouchers. The PHA will apply a preference for two-hundred fifty additional HCVs (*i.e., beyond our allocation of three-hundred FUP vouchers from HUD*) from its current allocation as FUP vouchers. This is because DCF has demonstrated that a lack of adequate affordable housing is preventing eligible families from finding suitable housing, thus obstructing unification with a child or children or causing a child or children to be placed out of the home.

Mainstream Housing Opportunities Program for Persons with Disabilities

Program Description

The Mainstream Housing Opportunities Program for Persons With Disabilities (*Mainstream Program*) will enhance the State of Connecticut's continuing efforts to provide, decent, safe and sanitary housing to persons with disabilities.

Waiting List and Tenant Selection Process

The PHA will identify eligible disabled persons on its waiting list. After the family is determined eligible to receive a Section 8 subsidy, the family will be admitted to participate in the program in accordance with HUD regulations and other requirements and with policies stated in the DSS administrative plan. If any vouchers remain, the PHA will open its waiting list to disabled persons who have not applied for the PHA's Section 8 Housing Choice Voucher Program.

The PHA may stop accepting applications if there are enough applicants to fill anticipated openings. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the last date applications that will be accepted in the same notice that advertises the opening of the list.

Veterans Affairs Supportive Housing (VASH)

Program Description

The HUD-VASH Program combines the Section 8 HCV Program with case management and clinical services provided by the Department of Veteran's Affairs Medical Centers (VAMC).

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Generally, the HUD-VASH HCV program will be administered in accordance with Section 8 HCV program requirements however Federal Register /Vol. 73, No. 88 allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program in order to effectively deliver and administer HUD-VASH voucher assistance. The HUD-VASH Operating Requirements (*including the waivers and alternative requirements from HCV program rules*) were published in the Federal Register on May 6, 2008.

Referrals and Waiting List

The VAMC will refer HUD-VASH eligible families to the PHA for the issuance of vouchers. Written documentation of these referrals must be maintained in the tenant file at the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Accordingly, § 8(o)(6)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(6)(A), concerning preferences, has been waived to provide for the effective administration of the program. In addition, 24 CFR 982.202, 982.204 and 982.207, relating to applicant selection from the waiting list and local preferences, are also waived.

Sections 982.203, 982.205 and 982.206 regarding special admissions, cross listing of the waiting list and opening and closing the waiting list do not apply to the HUD-VASH program. The VAMC will screen all families in accordance with its screening criteria. By agreeing to administer the HUD-VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies.

Denial of Applicants

Specifically, under the HUD-VASH program, PHAs will not have the authority to screen potentially eligible families or deny assistance for any grounds permitted under 24 CFR 982.552 (broad denial for violations of HCV program requirements) and 982.553 (*specific denial for criminals and alcohol abusers*), with one exception. PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex-offender registration program. Accordingly, the Department is exercising its authority to waive 42 U.S.C. 1437d(s); 42 U.S.C. 13661(a), (b) and (c); and 24 CFR Sections 982.552 and 982.553, with the exception of 982.553(a)(2)(i) that requires denial of admission to certain registered sex offenders.

Voucher Term

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least one-hundred twenty calendar days. Therefore, § 982.303(a) that states that the initial search term must be at least sixty calendar days, shall not apply, since the initial term must be at least one-hundred twenty calendar days.

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One sixty-day extension to participants will be granted upon written request. No further extensions will be approved. The total search time will be for a maximum of one-hundred eight calendar days.

Case Management Requirements

As a condition of rental assistance, the HUD-VASH family must receive case management services from the VAMC. Failure to participate, without good cause will result in termination of HUD-VASH voucher assistance as verified by the VAMC. However, if the VAMC determines the family no longer requires case management services, the family will be offered continued HCV assistance and transferred to a Housing Choice Voucher pending funding availability so the HUD-VASH voucher may be used by another family referred by the VAMC.

With the exception of the above statements, all other provisions of the Housing Choice Voucher Program apply.

G. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the PHA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed thirty percent of the area median income. HUD refers to these families as "extremely low-income families." The PHA will admit families who qualify under the extremely low-income limit to meet the income-targeting requirement, regardless of preference.

The PHA's income targeting requirement does not apply to low-income families continuously assisted as provided for under the 1937 Housing Act.

The PHA also is exempted from this requirement where the PHA is assisting low-income or moderate-income families entitled to preservation assistance under the tenant-based program because of a mortgage prepayment or opt-out.

H. INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

If the family's verified annual income, at final eligibility determination, does not fall under the extremely low-income limit and the family was selected for income targeting purposes before a family or families with a higher preference, the family will be returned to the waiting list.

I. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The PHA will periodically send applicants an update inquiry to ensure the applicant has continued interest in and need for, housing. The PHA will conduct this process at least every three years. An applicant who does not return the inquiry by the requested deadline date will have his or her name removed from the waiting list.

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The project-based waiting lists will be purged at least annually.

An extension of ten business days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

Any mailings to the applicant that require a response will state that failure to respond within fifteen business days will result in the applicant's name being dropped from the waiting list.

If a letter is returned by the post office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated**.**

If a family is removed from the waiting list for failure to respond, the Housing Director may reinstate the family if s/he determines the lack of response was due to PHA error or family medical disability. The PHA will reinstate the applicant in the family's former position on the waiting list.

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Chapter 5 SUBSIDY STANDARDS [24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that PHAs establish subsidy standards for the determination of family unit size and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size also must be within the minimum unit size requirements of HUD's Housing Quality Standards. This chapter explains the subsidy standards that will be used to determine the voucher size for families when they are selected from the waiting list, as well as the PHA's procedures when a family's size changes or a family selects a unit size that is different from the voucher size.

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with fair housing guidelines.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements.

The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

The head of household and spouse or partner shall be entitled to one bedroom.

Household members under twenty-six, who are of the same gender, shall share a bedroom, with the following exceptions:

1. Household members who are more than ten years younger,
2. Persons of the opposite sex (*other than spouses*),
3. unrelated adults , and
4. Children under the age of six, regardless of gender, shall share a bedroom.

Foster children will be included in determining unit size only if they will be in the unit for more than six months. A foster child is a child that is in the legal guardianship of a state, private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A child who is temporarily absent due to placement in foster care is considered a family member when determining unit size.

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Live-in attendants may be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family during school recesses.

A pregnant woman will be determined as a two-person household when determining unit size.

Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household (Minimum Number)	Persons in Household (Maximum Number)
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedroom	2	4
3 Bedroom	3	6
4 Bedroom	4	8
5 Bedroom	6	10
6 Bedroom	8	12

B. **EXCEPTIONS TO SUBSIDY STANDARDS [(24 CFR 982.403(a)&(b)]**

The PHA shall grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members or other individual circumstances.

The PHA will grant an exception upon request as an accommodation for persons with disabilities.

Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

1. Verified medical or health reason; or

2. Elderly persons or persons with disabilities who may require a live-in attendant.

DRAFT

Request for Exception to Subsidy Standards

The family may request a larger family unit-sized voucher than indicated by the PHA's subsidy standards. Such request must be made in writing within thirty calendar days of the PHA's determination of family unit size. The request must explain the need or justification for a larger family unit-sized voucher. Documentation verifying the need or justification will be required as appropriate.

Requests based on health-related reasons must be verified by a doctor/medical professional/ social service professional.

PHA error

If the PHA errs in the bedroom size designation, the family will be re-issued a voucher of the appropriate size so that the family is not penalized.

Changes for Applicants

The voucher size is determined before the briefing by comparing the family composition to the PHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the PHA subsidy standards, the above-referenced guidelines will apply.

Changes for Participants

All members of the family residing in the unit must be approved by the PHA. The family must obtain approval for any additional family member before the new member occupies the unit except for additions by birth, adoption or court-awarded custody, that case the family must inform the PHA within thirty calendar days. The above-referenced guidelines will apply.

Under-housed Families

If a unit does not meet HQS living space standards due to an increase in family size (*i.e., the unit is too small*), the PHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

1. If a family with a disability is under-housed in an accessible unit.

2. If a family requires the additional bedroom because of a health problem that has been verified by the PHA.

3. The family has been unable to locate a unit within sixty calendar days.

DRAFT

C. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling than that listed on the voucher. There are three criteria to consider:

1. Subsidy Limitation – The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the lower of:

   a. The payment standard amount for the family unit size or

   b. The payment standard amount for the unit size rented by the family.

2. Utility Allowance – The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's voucher.

3. Housing Quality Standards – The standards allow two persons per living/sleeping room and permit maximum occupancy levels (*assuming a living room is used as a living/sleeping area*) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and the living room is used for sleeping.

HQS GUIDELINES FOR UNIT SIZE SELECTED

	Maximum Number in Household
0 Bedroom	1
1 Bedroom	4
2 Bedroom	6
3 Bedroom	8
4 Bedroom	10
5 Bedroom	12
6 Bedroom	14

DRAFT

Chapter 6 FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION [24 CFR Part 5, Subparts E and F; 982.153, 982.551]

INTRODUCTION

The PHA will use the methods set forth in this Administrative Plan to verify and determine that family income at admission and re-examination are correctly calculated. The accurate calculation of annual income and of adjusted income will ensure that families are not paying more or less money for rent than is their obligation under the regulations

This chapter defines the allowable expenses and deductions are to be subtracted from annual income. The chapter also defines how the presence or absence of household members may affect the total tenant payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F and further instructions set forth in notices and memoranda issued by HUD. The formula for the calculation of TTP is specific and is not subject to interpretation. The PHA's policies in this chapter address those areas that allow the PHA discretion to define terms and to develop standards in order to ensure consistent application of the various factors that relate to the determination of TTP.

A. INCOME AND ALLOWANCES [24 CFR 5.609]

Income includes all monetary amounts that are received on behalf of the family. For purposes of calculating the total tenant payment, HUD defines in the federal regulations what is to be included and what is to be excluded. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

Annual income is defined as the gross (*or total*) amount of income anticipated to be received by the family during the twelve months after certification or re-examination. Gross income is the amount of income, before any expenses or deductions allowed by HUD, and does not include income that has been excluded by HUD. Annual income is used to determine whether applicants are within the applicable income limits.

Adjusted income is defined as the annual income minus any expenses or deductions allowed by HUD.

HUD has established five allowable deductions from annual income:

1. Dependent allowance – four-hundred eighty dollars each for family members (*other than the head or spouse*) who are minors and for family members who are age eighteen or older and who are full-time students or disabled.

Elderly/disabled allowance – four-hundred dollars per family for families whose head or spouse is age sixty-two or over or disabled.

The sum of the following, to the extent that the sum exceeds three percent of annual income:

DRAFT

1. Allowable medical expenses that are not reimbursed and that are deducted for all family members of an eligible elderly/disabled family.

2. Child care expenses deducted for the care of children under age thirteen when child care is necessary to allow an adult member to work, attend school or actively seek employment.

3. Allowable disability assistance expenses deducted for attendant care or for any auxiliary apparatus for persons with disabilities, if these are needed to enable the individual or adult family member to work.

B. **DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES [24 CFR 5.617; 982.201(b)(3)]**

The annual income for qualified families may not be increased because of increases in the earned income of a family member who is a person with disabilities, beginning on the date that the increase in earned income begins and continuing for a cumulative twelve-month period. After the disabled family receives twelve cumulative months of the full exclusion, annual income determinations will include a phase-in period during which one-half the earned income will be excluded from annual income for a period of an additional twelve cumulative months.

A family that qualifies to receive the earned income exclusion is a disabled family that is receiving tenant-based rental assistance under the HCV program and:

1. whose annual income increases because of the employment of a family member who is a person with disabilities and who was previously unemployed for one or more years before employment; or whose annual income increases because of increased earnings by a family member who is a person with disabilities participating in any economic self-sufficiency or other job training program; or

2. whose annual income increases because of the new employment or increased earnings of a family member during or within six months after receiving assistance, benefits or services under any state TANF program, provided that the total amount of the increase over a six-month period is at least five hundred dollars.

The HUD definition of "previously unemployed" includes a person with disabilities who has in the previous twelve months earned no more than the equivalent earnings for working ten hours per week for fifty weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the state or locality.

The HUD definition of an economic self-sufficiency program is any program designed to encourage, assist, facilitate or train for the economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare,

DRAFT

financial or household management, apprenticeship or any other program necessary to ready a participant to work (*such as substance abuse treatment or mental health treatment*).

Amounts to be excluded are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job-training program but not increases that occur after the conclusion of their participation, unless the training provides continuing assistance, training or mentoring that continues after employment begins.

The amount of TANF benefits received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies or transportation assistance.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or the increase in earned income to the amount of such income after the beginning of employment or the increase in earned income.

Initial Twelve-Month Exclusion

During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA will exclude from the annual income of a qualified family any increase in income of the family member who is a person with disabilities because of employment over the prior income of that family member.

Second Twelve-Month Exclusion

During the second cumulative twelve month period, beginning immediately after the expiration of the initial cumulative twelve month period referred to above, the PHA must exclude from the annual income of a qualified family fifty percent of the total amount of any increase in the income of a family member who is a person with disabilities that occurs because of the employment of that family member, when that amount represents an increase over the income of that family member before the beginning of such employment.

Maximum Four-Year Period During which the Disallowance Applies

The earned income disallowance is limited to a lifetime forty-eight-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of twelve months of full exclusion of incremental increase and a maximum of twelve months of fifty percent phase-in exclusion during the forty-eight-month period starting from the date of the initial exclusion.

If the period of increased income does not last for twelve consecutive months, the disallowance period may be resumed at any time within the forty-eight-month period and continued until the disallowance has been applied for a total of twelve months of each disallowance (*the initial twelve-month full exclusion and the second twelve-month phase-in fifty percent exclusion*),

DRAFT

provided that both twelve-month periods must end within the forty-eight-month period that began on the date when the initial twelve-month disallowance began. If both twelve-month periods do not end within the forty-eight-month period that began on the date when the initial twelve-month disallowance began (*i.e., the date of the initial exclusion*), the total amount of the disallowance shall be the total disallowance accumulated during the forty-eight-month period.

No earned income disallowance will be applied after the conclusion of the forty-eight-month period following the initial date that the exclusion was applied.

Applicability to Child Care Expense and Disability Assistance Expense Deductions

The amount deducted for child care and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD Form 50058 Family Report. Documentation will be included in the family's file to show the reason why the increase in earned income did not result in an increase in tenant rent.

Such documentation will include:

1. Date that the increase in earned income was reported by the family.

2. Name of the family member whose earned income increased.

3. Reason (*such as new employment, participation in job training program, within six months after receiving TANF*) for the increase in earned income.

4. Amount of the increase in earned income (*i.e., the amount to be excluded*).

5. Date that the increase in income is first excluded from annual income.

6. Dates (*if any*) that the increase in earned income ended and then resumed during the initial cumulative twelve-month period of exclusion.

7. Date that the family member had received a total of twelve months of the initial exclusion.

8. Date that the twelve-month phase-in period began.

9. Dates (*if any*) that the increase in earned income ended and then resumed during the second cumulative twelve-month (*phase-in*) period of exclusion.

DRAFT

10. Date that the family member had received a total of twelve months of the phase-in exclusion.

11. Ending date of the maximum forty-eight-month (*four-year*) period during which the disallowance applied (*forty-eight months from the date of the initial earned income disallowance*).

The PHA will maintain a tracking system to ensure the correct application of the earned income disallowance.

> ***[INSTRUCTION:*** *It is a PHA policy decision whether to conduct interim re-examinations for income increases. HUD has not provided guidance on how the mandatory earned income disallowance is to be implemented for PHAs that do not conduct interim re-examinations for income increases.]*

Inapplicability to Admission

The earned income disallowance is only applied to determine the annual income of families who are participants in the HCV program and therefore it does not apply for purposes of admission to the program (*including the determination of income eligibility or any income targeting that may be applicable*).

C. MINIMUM RENT [24 CFR 5.630]

Minimum Rent

The minimum rent is fifty dollars. Minimum rent refers to the total tenant payment and is the minimum amount a family pays towards rent and utilities (*combined*) when it is applied.

Hardship Requests for an Exception to Minimum Rent

The PHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The PHA will review all relevant circumstances brought to its attention regarding financial hardship as it applies to the minimum rent. The following section states the PHA's procedures and policies concerning financial hardship caused by the minimum rent, as set forth by the Quality Housing and Work Responsibility Act of 1998**.** HUD has defined circumstances under which a hardship could be claimed.

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception, the family's circumstances must fall under any of the following HUD hardship criteria:

1. The family has lost eligibility or is awaiting an eligibility determination for federal, state or local assistance; including a family with a member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Naturalization Act and

DRAFT

who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996 or

2. The family would be evicted because of the imposition of the minimum rent requirement or

3. The income of the family has decreased because of changed circumstances, including loss of employment, death in the family or other circumstances as determined by the PHA or HUD.

The loss of employment for willful misconduct or voluntary separation shall not be grounds for a hardship exception for six months from the date of separation.

PHA Notification to Families of Right to Hardship Exception

The PHA will notify all families subject to the minimum rent of their right to request a minimum rent hardship exception. Those families subject to the minimum rent are those for whom the minimum rent is the greatest figure in the calculation of TTP as determined by the following:

1. thirty percent of monthly-adjusted income,

2. ten percent of monthly income or

3. minimum rent.

If the minimum rent is the greatest figure in the calculation of total tenant payment, PHA staff will include in the family's file a copy of the notice regarding the family's right to make a hardship request that has been provided to the family.

The PHA notification to families will advise them that hardship exception determinations are subject to the PHA review and hearing procedures. All requests for minimum rent hardship exceptions are required to be made in writing. Requests for minimum rent hardship exceptions must include a statement of the family circumstances that qualify the family for an exception.

The PHA will review all family requests made for exception to the minimum rent due to financial hardship in thirty calendar days. The PHA will use its standard verification procedures to verify circumstances that are claimed to have resulted in financial hardship.

Suspension of Minimum Rent

The PHA will grant the minimum rent exception to all families who request it, effective the first of the following month. The minimum rent will be suspended until the PHA determines whether a hardship exists and, if it exists, whether the hardship is temporary or long-term.

Suspension means that the PHA must not enforce the minimum rent calculation until the PHA has made its decision whether to grant a request for an exception. During the minimum rent

DRAFT

suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

Temporary Hardship

If the PHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to ninety calendar days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The PHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period (*see Chapter17 of this Administrative Plan, "Owner or Family Debts to the PHA," for the repayment agreement policy*).

Long-Term Hardship

If the PHA determines that there is a qualifying long-term financial hardship, the PHA must exempt the family from the minimum rent requirement for as long as the hardship continues. The exception from minimum rent shall apply from the first day of the month following the family's request for exemption. Every ninety calendar days, the family will be required to demonstrate that the circumstances that qualify the family for an exception continue to exist.

Denial of Hardship Exception

If the PHA determines that there is not a qualifying financial hardship, the PHA must notify the family in writing of the denial of its request within thirty calendar days. The PHA will offer a repayment agreement to the family for any rent not paid during the period when the PHA was evaluating the hardship exception request (*see Chapter 17 of this Administrative Plan, "Owner or Family Debts to the PHA," for the repayment agreement policy*).

D. DEFINITION OF TEMPORARY OR PERMANENT ABSENCE [24 CFR 982.54(d)(10), 982.312, 982.551]

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit using this policy**.**

> »*Should the absence fall during the recertification period, including HQS inspections, it is the responsibility of the head of household to ensure that appropriate program requirements are fulfilled.«*

Temporary Absence of Any Member

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

DRAFT

If the spouse is temporarily absent and in the military, all military pay and allowances (*except hazardous duty pay when a person is exposed to hostile fire and any other exceptions to military pay that HUD may define*) is counted as income.

Permanent Absence of Any Member

Any member of the household will be considered permanently absent if she or he is away from the unit for three consecutive months except as otherwise provided in this chapter. Income of persons permanently absent will not be counted.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be confined to a nursing home, the family member will be considered absent. If, within a calendar year**,** the verification indicates that the family member will return in less than three months, the family member will not be considered absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA's "Absence of Entire Family" policy.

Absence Due to Full-time Student Status

Full time students who attend school away from the home will be treated in the following manner:

> A student (*other than the head of household or spouse*) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. Income over four-hundred eighty dollars is not counted for full-time students. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease and the member will not be included for determination of voucher size.

Absence Due to Incarceration

If the sole member of a family is incarcerated for more than three months, she or he will be considered permanently absent. Any member of the family other than the sole member will be considered permanently absent if she or he is incarcerated for three consecutive months. The PHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

DRAFT

Absence of Children Due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child or children will be returned to the home.

If the time-period is to be greater than twelve months from the date of removal of the child or children, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the PHA's subsidy standards.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate assistance in accordance with appropriate termination procedures contained in this plan.

Families are required both to notify the PHA before they move out of a unit and to give the PHA information about any family absence from the unit.

Families must notify their owner and PHA if they are going to be absent from the unit for more than thirty consecutive calendar days. Approval will be granted by the PHA on a case-by-case basis.

If the entire family is absent from the assisted unit for more than ninety consecutive calendar days, the unit will be considered to be vacated and the assistance will be terminated.

»Absent means that no family member is residing in the unit.«

In order to determine if the family is absent from the unit, the PHA may:

1. Write letters to the family at the unit
2. Telephone the family at the unit
3. Interview neighbors
4. Verify if utilities are in service
5. Check with the post office

A person with a disability may request an extension of time as an accommodation, if the extension requested does not go beyond the HUD-allowed limit of one-hundred eighty consecutive calendar days.

If the absence that resulted in the termination of assistance was due to a person's disability, if the PHA can verify that the person was unable to notify the PHA in accordance with the family's

DRAFT

responsibilities, and if funding is available, the PHA may re-instate the family as an accommodation if requested by the family.

Caretaker for Children

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor until court-awarded custody or legal guardianship has been awarded to the caretaker. The voucher will then be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, the PHA will review the status at thirty-day intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the PHA will secure verification from social services staff as to the status.

When the PHA approves a person to reside in the unit as caretaker for the children, the income of the caretaker should be counted pending a final disposition. The PHA will work with the appropriate service agencies and the owner to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him or her from the home for more than three months, the person will be considered permanently absent.

Visitors

Any adult, regardless of degree of relationship, not included on the HUD Form 50058 who has been in the unit for more than thirty consecutive calendar days without PHA approval will be considered to be living in the unit as an unauthorized household member.

Statements from neighbors and/or the owner will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as evidence of permanent residence.

If the PHA has evidence that indicates the individual has been residing in the unit for more than thirty business days, the family will be terminated since prior approval was not requested for the addition. The family will have the opportunity to request an informal hearing to refute the evidence.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to sixty consecutive calendar days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than fifty-one percent of the year, the minor will be considered an eligible visitor and not a family member.

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Reporting Additions to Owner and PHA

Reporting changes in household composition to the PHA is both a HUD requirement and a PHA requirement.

The family obligations require the family to inform the PHA of the birth, adoption or court-awarded custody of a child and to request PHA approval to add any other family member as an occupant of the unit. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income, as applicable under HUD regulations.

Families are required to report any additions to the household in writing to the PHA within thirty business days of the move-in date.

An interim re-examination will be conducted in the event of any additions to the household.

Reporting Absences to the PHA

Reporting changes in household composition is both a HUD requirement and a PHA requirement.

If a family member leaves the household, the family must report this change to the PHA, in writing, within thirty business days of the change (*i.e., after the change*) and certify as to whether the member is temporarily absent or permanently absent.

The PHA will conduct an interim evaluation for changes that affect the total tenant payment in accordance with the interim policy.

E. AVERAGING INCOME

When annual income cannot be anticipated for a full twelve months, the PHA may:

1. Average all known sources of income that vary, in order to compute an annual income or

2. Annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

If there are possible bonuses or overtime payments that the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

If an estimate can be made for those families whose income fluctuates from month to month by averaging, this estimate will be used to reduce the number of interim adjustments.

The method to be used depends upon the regularity, source and type of income.

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F. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to complete a written certification of no income every ninety calendar days.

G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME [24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the PHA will calculate the income by using the following methodology and use the income figure that would result in a lower payment by the family:

1. Exclude the income of the person permanently confined to the nursing home and give the family no deductions for the medical expenses of the confined family member or

2. Exclude the income and deductions of the member if his/her income goes directly to the facility.

H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the total tenant payment.

Any contribution or gift received every six months or more frequently will be considered a regular contribution or gift, unless the amount totals less than five-hundred dollars per year. This includes rent and utility payments made on behalf of the family as well as other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (*See Chapter 7 of this Administrative Plan, "Verification Procedures," for further definition.*)

I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

Regular alimony and child support payments are counted as income for purposes of the calculation of total tenant payment.

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that:

1. the payments are *not* being made and

2. the family has made reasonable efforts to collect the amounts due, including filing with the courts or agencies responsible for enforcing payments.

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The PHA will accept as verification that the family is receiving an amount less than the award if:

1. The PHA receives verification from the agency responsible for enforcement or collection.

2. The family furnishes documentation of a child support or alimony collection action filed through a child support enforcement or collection agency or documentation that they have filed enforcement or collection action through an attorney.

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

Should alimony or child support be received in a lump sum(s) due to a court action or voluntary payment(s) on a court ordered arrearage, the payment(s) will be treated as income and calculated as such using the methodology outlined under the heading LUMP-SUM RECEIPTS.

J. LUMP-SUM RECEIPTS [24 CFR 5.609]

Lump-sum additions to family assets, such as inheritances, insurance payments (*including payments under health and accident insurance or worker's compensation*), capital gains and settlement for personal or property losses are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments that have accumulated due to a dispute will be treated the same as periodic payments that are deferred due to delays in processing.

In order to determine the amount of retroactive tenant rent that the family owes because of the lump sum receipt:

The PHA uses a calculation method that calculates prospectively or retroactively, depending on the circumstances.

The PHA will calculate prospectively if the family reported the payment within thirty business days and retroactively to the date of receipt if the receipt was not reported with that period.

Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

The entire lump-sum payment will be added to the annual income at the time of the interim.

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Retroactive Calculation Methodology

1. The PHA will use the date that the lump-sum payment was received or to the date of admission, whichever is closer.

2. The PHA will determine the amount of income for each certification period, including the period during which the lump sum was received and recalculate the tenant rent for each certification period to determine the amount due the PHA.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered lump-sum compensation and if the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]

Contributions to company retirement or pension funds are handled as follows:

1. While an individual is employed, count as assets only those amounts the family can withdraw without retiring or terminating employment.

2. After retirement or termination of employment, count as an asset any amount the employee elects to receive in a lump sum.

L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(d)(3)]

The PHA must count assets disposed of for less than fair market value during the two years preceding certification or re-examination. The PHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of because of foreclosure or bankruptcy is not considered assets disposed of for less than fair market value. Assets disposed of because of a divorce or separation is not considered assets disposed of for less than fair market value.

M. CHILD CARE EXPENSES [24 CFR 5.603]

Child care expenses for children under age thirteen may be deducted from annual income if

They enable an adult to work, to attend school or actively to seek employment.

In the case of a child attending private school, only care provided before and after school hours can be counted as child care expenses.

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Allowability of deductions for child care expenses is based on the following guidelines:

1. Child care for work – The maximum child care expense allowed must be less than the amount earned by the person enabled to work that is included in the family's annual income. The person enabled to work will be the adult member of the household who earns the least amount of income from working.

2. Child care for school – The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

N. **Amount of expense – Licensed, registered or otherwise regulated childcare providers will provide a signed statement of childcare expenses. The maximum allowance for all other child care is eighty-nine dollars per child, per week MEDICAL EXPENSES [24 CFR 5.609(a)(2), 5.603]**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide.

Non-prescription medicines will be counted toward medical expenses for families who qualify, if the family furnishes legible receipts.

O. **PRO-RATION OF ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

Applicability

Pro-ration of assistance must be offered to any mixed applicant or participant family. A mixed family is one that includes at least one U. S. citizen or eligible immigrant and any number of ineligible members.

Mixed families that were participants on / as of June 19, 1995 and that do not qualify for continued assistance must be offered pro-rated assistance (*see Chapter 12 of this Administrative Plan, "Re-examinations."*). Mixed applicant families are entitled to pro-rated assistance. Families that become mixed after June 19, 1995 by the addition of an ineligible member are entitled to pro-rated assistance.

Pro-rated Assistance Calculation

Pro-rated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total tenant payment is the gross rent minus the pro-rated assistance.

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P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The PHA will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of:

1. fraud by a family member in connection with the welfare program; or

2. failure to participate in an economic self-sufficiency program; or

3. non-compliance with a work activities requirement.

However, the PHA will reduce the rental contribution if the welfare assistance reduction is a result of:

1. The expiration of a lifetime time limit on receiving benefits; or

2. A situation where a family member has not complied with other welfare agency requirements; or

3. A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as when the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family because of a specified welfare benefit reduction that is included in the family's income for determining the rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted family at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction is imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The welfare agency, at the request of the PHA, will inform the PHA of:

1. the amount and term of specified welfare benefit reductions for the family;

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2. the reason for the reduction; and

3. any subsequent changes in term or amount of reduction.

Q. **UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.153, 982.517, 982.514(b)]**

The same utility allowance schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The PHA's utility allowance schedule and the utility allowance or an individual family, must include utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The PHA must classify utilities in the utility allowance schedule according to the following general categories:

1. space heating,

2. cooking,

3. water heating,

4. other electric, water,

5. sewer,

6. trash collection,

7. refrigerator (*amortized cost of tenant-supplied refrigerator*),

8. range (*amortized cost of tenant-supplied range*) and

9. other specified services.

The PHA will review the utility allowance schedule annually. If the review finds that a utility rate has changed by ten percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at the family's next re-examination.

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The approved utility allowance schedule is given to families along with their voucher. The utility allowance calculation is based on the actual unit size selected.

Where families provide their own range and refrigerator, the PHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a twelve-month period.

Where the calculation on the HUD Form 50058 results in a utility reimbursement due the family, the PHA will provide a utility reimbursement payment to the family monthly. The check will be made out directly to the tenant or, if the tenant has agreed, in writing, a check will be made out directly to utility company(ies).

The PHA will approve a higher utility allowance for a family including a person with a disability, if needed.

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Chapter 7 VERIFICATION PROCEDURES [24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]

INTRODUCTION

HUD regulations require that the factors of eligibility and total tenant payment/family share be verified by the PHA. PHA staff will obtain written verification from independent sources (*i.e., third party verification*) whenever possible. If it is not possible for PHA staff to obtain third party verification, staff will document in the tenant files why they were not able to do so.

Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This chapter explains the PHA's procedures and standards for determining income, assets, allowable deductions, family status and changes in family composition. The PHA will obtain proper authorization from the family before requesting information from independent sources.

ENTERPRISE INCOME VERIFICATION (EIV) POLICY AND PROCEDURES

RETENTION AND DESTRUCTION POLICY

All Up-front Income Verification UIV (EIV) documents will be maintained in the participants file that will be placed in a locked file cabinet. Unused UIV (EIV) data, Credit reports and Criminal reports will be placed in a separate locked file cabinet and the Housing Agency will occasionally shred these materials. When shredding is used for disposition, the paper will be shred to effect 5/16 wide or smaller so the strips are not readable.

COMPUTER MATCHING

Where allowed by HUD and/or other State or local agencies, computer matching will be done. HUD has conducted a computer matching initiative to verify independently resident income. The Up Front Income Verification system also known as EIV created by HUD allows the PHA to access income information and compare it to information submitted by PHA's on the HUD Form 50058 form. To obtain the EIV data there must be a HUD Form 9886 signed in the participants file, without the signed HUD Form 9886, EIV cannot be accessed. The programs administrators' Security Officer or designated staff, will assure that a copy of HUD Form 9886 form has been signed by all household members 18 years of age and older is in the household file. The data provided via EIV system must be protected to ensure that it is only used for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data.

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A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

The PHA will verify information through the four methods of verification acceptable to HUD in the following order:

1. Up-front Income Verification (*EIV, EMS, CCSES etc.*) when available
2. third-party written
3. third-party oral
4. review of documents
5. certification/self-declaration

The PHA will allow three weeks for return of third-party written verification. PHA staff will allow two weeks per attempt to obtain other types of verification before going on to the next method. The PHA will place documentation in the tenant file as to why third party written verification was not obtained**.** When the applicant or tenant brings verification **(***excluding 3rd party verification***)** to the PHA, in person, the verification will be date stamped and a date stamped copy will be returned to the tenant.

For applicants, verifications may not be more than sixty calendar days old at the time of voucher issuance. For participants, verifications are valid for one-hundred twenty calendar days from date of receipt.

Up-Front Income Verification (UIV)

Up-front verification refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits (*HUD's EIV, EMS, CCSES etc.*).

There may be legitimate differences between information provided by the family and **EIV** generated information. No adverse action can be taken against a family until the PHA has independently verified the **EIV** information and the family has been given the opportunity to contest any adverse findings through the informal review/ hearing process.

Under no circumstances should a family be terminated solely on information generated through use of **EIV**.

Third-Party Written Verification

Third-party written verification is used to verify information directly from the source. Third-party written verification forms will be sent and returned via first class mail and/or facsimile (FAX) transmittal. Each adult family member (*i.e., age eighteen or older*) will be required to sign an authorization allowing an information source to release the specified information.

DRAFT

Verifications received by FAX directly from the source are considered third-party written verifications.

Third-party verification forms will not be hand-carried by the family with the exception of computer printouts delivered by the family from the following agencies:

1. Social Security Administration

2. Veterans Administration

3. State Department of Social Services (*Welfare Assistance*)

4. State Labor Department (*Unemployment Compensation*)

5. State or federal courts

Third-Party Oral Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the date of the conversation and the facts provided. If oral third party verification is not available, the PHA will compare the information to any documents provided by the family. If obtained by telephone, the PHA must originate the call.

Review of Documents

In the event that third-party written or oral verification is unavailable, the PHA will notate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed that cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted.

The PHA will accept the following documents from the family, if the document is such that tampering would be easily noted:

1. Printed wage stubs

2. Computer print-outs from the employer

3. Signed letters (*provided that the information is confirmed by telephone*)

4. Other documents noted in this chapter as acceptable verification

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Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification is accomplished by means of an affidavit that must be witnessed by a representative of the PHA and that is obtained under penalty of perjury.

Discrepancy Resolution Procedure

If third-party verification is received after documents have been accepted as provisional verification and there is a discrepancy, the PHA will attempt to contact both parties providing information in order to resolve the discrepancy. The PHA will place in the family file an explanation of the manner that the discrepancy was resolved.

B. RELEASE OF INFORMATION [24 CFR 5.230]

All adult family members will be required to sign a copy of HUD form 9886, Authorization for Release of Information/Privacy Act Form.

In addition, all adult family members will be required to sign specific authorization forms when information is needed that is not covered by HUD form 9886.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the PHA or HUD.

C. COMPUTER MATCHING

For some time, HUD has conducted a computer matching initiative to verify independently resident income. HUD can access income information and compare it to information submitted by PHAs on the Form 50058 form. HUD can disclose Social Security information to PHAs, but is precluded by law from disclosing Federal tax return data to PHAs. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the PHA (*24 CFR 5.240*). HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the PHA. HUD will send the PHA a list of families who have received “income discrepancy” letters.

When the PHA receives notification from HUD that a family has been sent an “income discrepancy” letter, the PHA will wait forty calendar days after the date of notification before contacting tenant.

DRAFT

On the forty-first day following the date of notification, the PHA will contact the tenant by mail asking the family to furnish any letter or other notice by HUD concerning the amount or verification of family income within thirty calendar days.

The PHA will fully document the contact in the tenant's file, including a copy of the letter to the family.

When the family provides the required information, the PHA will verify the accuracy of the income information received from the family, review the PHA's interim recertification policy, will identify unreported income, will charge retroactive rent as appropriate and change the amount of rent or terminate assistance, as appropriate, based on the information.

If tenant fails to respond to PHA:

1. The PHA will ask HUD to send a second letter.

2. After an additional forty calendar days, the PHA will ask HUD to send a third letter.

3. After an additional forty calendar days, the PHA will send a letter to the head of household, warning of the consequences if the family fails to contact the PHA within two weeks.

If the tenant claims a HUD letter was not received:

1. The PHA will ask HUD to send a second letter with a verified address for the tenant.

2. After forty calendar days, the PHA will contact the tenant family.

3. If the tenant family still claims they have not received a letter, the PHA will ask HUD to send a third letter.

4. After an additional forty calendar days, the PHA will set up a meeting with the family to complete IRS Forms 4506 and 8821.

5. If the tenant family fails to meet with the PHA or will not sign the IRS Forms, the PHA will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the PHA and/or sign forms.

DRAFT

If tenant does receive a discrepancy letter from HUD:

1. The PHA will set up a meeting with the family.

2. If the family fails to attend the meeting, the PHA will reschedule the meeting.

3. If the family fails to attend the second meeting, the PHA will send a termination warning.

4. The family must bring the original HUD discrepancy letter to the PHA.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter:

1. The PHA will ask the tenant to provide documented proof that the tax data is incorrect.

2. If the tenant does not provide documented proof, the PHA will obtain proof to verify the Federal tax data using third party verification.

D. **ITEMS TO BE VERIFIED [24 CFR 982.516]**

All income, including income exclusions.

Full-time student status including high school students who are eighteen or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Child care expense where it allows an adult family member to be employed, to seek work actively or to further his /her education.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family that allows an adult family member to be employed.

Disability for determination of preference status, allowances or deductions

Proof of legal identity

U. S. citizenship/eligible immigrant status

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Social Security Numbers for all family members over 6 years of age or older who have been issued a social security number.

Familial/Marital status when needed for head or spouse definition.

E. **All utilities that are the tenant's responsibility are operational VERIFICATION OF INCOME [24 CFR 982.516]**

This section defines the methods the PHA will use to verify various types of income.

Employment Income

Verification forms request the employer to specify the:

1. Dates of employment
2. Amount and frequency of pay
3. Date of the last pay increase
4. Likelihood of change of employment status and effective date of any known salary increase during the next twelve months
5. Year to date earnings
6. Estimated income from overtime, tips, bonus pay expected during next twelve months

Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer or income verification provided by a state or federal agency.
2. Third-party oral verification.
3. Check stubs or earning statements for a minimum of six weeks or three bi-weekly pay periods that indicate the employee's gross pay, frequency of pay or year-to-date earnings or W-2 forms plus an income tax return.
4. Self-certifications or income tax returns signed by the family that may be used to verify self-employment income or income from tips and other gratuities.

Self-Employment

The PHA will require the family member to supply the IRS Form 1099 as verification of earned income.

DRAFT

If a family member has been self-employed for less than three months, the PHA will accept a certified estimate of income from the family member and schedule an interim reexamination in three months. If the family member has been self-employed for three to twelve months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income. If in fact the family member's period of self-employment spans from one tax year to the next, even if the employment period is less than three months, the IRS Form 1099 will be required for the previous year.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include, in this order:

1. Benefit verification form completed by agency providing the benefits.
2. Award or benefit notification letters prepared and signed by the providing agency.
3. Computer report obtained electronically or in hard copy.

Unemployment Compensation

Acceptable methods of verification include, in this order:

1. Verification form completed by the unemployment compensation agency.
2. Computer printouts from unemployment office stating payment dates and amounts.
3. Payment stubs.
4. EMS print out

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. PHA verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of payment, start date of payments and anticipated changes in payment in the next twelve months.

DRAFT

3. Computer-generated Notice of Action.

Alimony or Child Support Payments

Acceptable methods of verification include the following, in descending order of priority:

1. Copy of a separation or settlement agreement or a divorce decree stating the amount and type of support and the payment schedules or a statement provided by the child support agency.

2. A notarized letter from the person paying the support.

3. Copy of latest check or the payment stubs from the Court Trustee. The PHA must record the date, amount and number of the check.

If payments are irregular, the family must provide:

1. A copy of the separation or settlement agreement or a divorce decree stating the amount and type of support and payment schedules.

2. A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

3. A welfare notice of action showing amounts received by the welfare agency for child support.

4. A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income from a Business

In order to verify the net income from a business, the PHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next twelve months.

Acceptable methods of verification include:

1. IRS Form 1040, including:

    a. Schedule C (*Small Business*)

    b. Schedule E (*Rental Property Income*)

    c. Schedule F (*Farm Income*)

DRAFT

2. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

Audited or unaudited financial statements of the business.**Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (*which may or may not be licensed*), the PHA will require the applicant/participant to complete a form for each customer that indicates:

1. The name of person whose child/children is being cared for,
2. The person's telephone number,
3. The number of hours child is being cared for,
4. The method of payment (*check, check, etc.*),
5. The amount paid and
6. The signature of person, and

If the family has filed a tax return, the family will be required to provide it.

Recurring Gifts

The family must furnish a self-certification that contains the following information:

1. The person who provides the gifts
2. The value of the gifts
3. The regularity (*dates*) of the gifts
4. The purpose of the gifts

Zero Income Status

Families that claim zero income will be required to attend an interview at the PHA every three months and sign a new zero income statement. The PHA will run a computer match in EMS-CAP and through the state Department of Labor (DOL) at the same time.

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Full-time Student Status

Only the first four-hundred eighty dollars of the earned income of full time students, other than head or spouse, will be counted towards family income.

Financial aid, scholarships and grants are not counted towards family income.

Verification of full time student status includes:

1. Written verification from the registrar's office or other school official.

2. School records indicating enrollment for a sufficient number of credits to be considered a full time student by the educational institution.

F. **INCOME FROM ASSETS [24 CFR 982.516]**

Savings Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

1. Account statements, passbooks, certificates of deposit or PHA verification forms completed by the financial institution.

2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.

3. IRS Form 1099 from the financial institution, if the PHA must adjust the information to project earnings expected for the next twelve months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer or a financial institution stating interest due for next twelve months. (*A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown*.)

2. Amortization schedule showing interest for the twelve months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (*Rental Income*).

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2. Copies of latest rent receipts, leases or other documentation of rent amounts.

3. Documentation of allowable operating expenses of the property:

   a. tax statements,

   b. insurance invoices,

   c. bills for reasonable maintenance and utilities and

   d. bank statements or amortization schedules showing monthly interest expense.

4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

G. **VERIFICATION OF ASSETS**

Family Assets

The PHA will require the necessary information to determine the current cash value (*the net amount the family would receive if the asset were converted to cash*) of assets:

1. Verification forms, letters or documents from a financial institution or broker.

2. Passbooks, checking account statements, certificates of deposit, bonds or financial statements completed by a financial institution or broker.

3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.

4. Real estate tax statements if the approximate current market value can be deduced from assessment.

5. Financial statements for business assets.

6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.

7. Appraisals of personal property held as an investment.

8. Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

The PHA will verify information on assets through the four methods of verification acceptable to HUD in the following order:

1. third-party written

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2. third-party oral

3. review of documents

4. certification/self-declaration

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Re-examination

1. For all certifications and re-examinations, the PHA will obtain the family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or re-examination.

2. If the family certifies that they have disposed of assets for less than fair market value, certification is required that shows:

    a. all assets disposed of for less than FMV,

    b. the date they were disposed of

    c. the amount the family received and

    d. the market value of the assets at the time of disposition.

Third party verification will be obtained wherever possible.

Procedure if there is a service charge for obtaining third party verification

The PHA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that prove the necessary information.

If the family cannot provide the documents, the PHA will pay the service charge required to obtain the third-party verification, unless it is not cost effective. If obtaining the verification is not cost effective, case self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is considered reasonable.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]

Child Care Expenses

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

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2. Verifications must specify the child care provider's name, address, telephone number, Social Security Number**,** the names of the children cared for, the number of hours the child care occurs, the rate of pay and the typical yearly amount paid, including school and vacation periods.

3. Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

4. Verification that childcare provider is licensed/registered or otherwise regulated must be obtained from provider, otherwise childcare situation will be treated as unregulated and eligible only for a maximum allowance of eighty-nine dollars per child, per week.

Medical Expenses

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of

    a. the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and

    b. extent to that those expenses will be reimbursed by insurance or a government agency.

2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next twelve months. A computer printout will be accepted.

4. For attendant care:

    a. A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

    b. The attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (*or copies of canceled checks the family used to make those payments*) or stubs from the agency providing the services.

5. Receipts, canceled checks or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve months.

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6. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next twelve months.

7. Receipts or other record of medical expenses incurred during the past twelve months that can be used to anticipate future medical expenses. PHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

8. The PHA will use mileage at the IRS rate or cab, bus fare or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities [24 CFR 5.611(c)]

1. In All Cases:

   a. Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

   b. Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

2. Attendant Care:

   a. Attendant's written certification of amount received from the family, frequency of receipt and hours of care provided.

   b. Certification of family and attendant and/or copies of canceled checks family used to make payments.

3. Auxiliary Apparatus:

   a. Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

   b. In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

I. VERIFYING NON-FINANCIAL FACTORS [24 CFR 5.617(b)(2)]

Verification of Legal Identity

In order to prevent program abuse, the PHA will require applicants to furnish verification of legal identity for all family members.

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The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

1. Certificate of Birth, naturalization papers
2. Church issued baptismal certificate
3. Current, valid Driver's license
4. U. S. military discharge (*DD 214*)
5. U. S. passport
6. Voter's registration
7. Company/agency Identification Card
8. State or Federal government issued identification card
9. DSS Eligibility Management System (EMS) print-out

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

1. Certificate of Birth
2. Adoption papers
3. Custody agreement
4. Health and Human Services ID
5. School records

Verification of Marital Status

[INSTRUCTION: This would be used to determine spouse for income and deduction and non-citizen purposes]

1. Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.
2. Verification of a separation may be a copy of court-ordered maintenance or other records.
3. Verification of marriage status is a marriage certificate.

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Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

1. Verification of relationship:
    a. Official identification showing names
    b. Birth Certificates
    c. Baptismal certificates
2. Verification of guardianship is:
    a. Court-ordered assignment
    b. Verification from social services agency
    c. School records

Verification of Permanent Absence of Family Member If an adult member who was formerly a member of the household is reported permanently absent by the family, the PHA will consider any of the following as verification:

1. Husband or wife institutes divorce action.
2. Husband or wife institutes legal separation.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license or lease or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the owner or manager that the adult family member is no longer living at that location.
6. If no other proof can be provided, the PHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.
7. If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

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Verification of Change in Family Composition

The PHA may verify changes in family composition either reported or unreported through letters, telephone calls, utility records, inspections, owners, neighbors, credit data, school or DMV records and other sources.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (*42 U.S.C. 6001(7*)) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist or licensed social worker, using the HUD language as the verification format.

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508,5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U. S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Citizenship and Immigration Service (CIS). Each family member must declare their status once. Assistance cannot be delayed, denied or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

1. Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The PHA will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

    a. United States Birth Certificate

    b. United States passport

    c. Resident alien/registration card

    d. Social Security card

2. Eligible Immigrants aged 62 and over are required to sign a declaration of eligible immigration status and provide proof of age.

3. Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents that are copied front and back and returned to the family. The PHA verifies the status through the CIS SAVE system. If this primary verification fails to verify status, the PHA must request within ten business days that the CIS conduct a manual search.

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4. Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

5. Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification

For applicants, verification of U. S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination**/**at the time of initial application**.**

For participants, it is done at the first regular recertification after June 19, 1995. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

Extensions of Time to Provide Documents

The PHA will grant an extension of fifteen business days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

1. Resident Alien Card (*I-551*)

2. Alien Registration Receipt Card (*I-151*)

3. Arrival-Departure Record (*I-94*)

4. Temporary Resident Card (*I-688*)

DRAFT

5. Employment Authorization Card (*I-688B*)

6. Receipt issued by the CIS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U. S. citizenship/eligible immigrant status must be kept five years.

The PHA will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

If the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for thirty-six months, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration. If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

1. A driver's license

2. Identification card issued by a Federal, State or local agency

3. Identification card issued by a medical insurance company or provider (*including Medicare and Medicaid*)

4. An identification card issued by an employer or trade union

5. An identification card issued by a medical insurance company

6. Earnings statements or payroll stubs

7. Bank Statements

8. IRS Form 1099

9. Benefit award letters from government agencies

10. Retirement benefit letter

DRAFT

11. Life insurance policies

12. Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records

13. Verification of benefits or Social Security Number from Social Security Administration

14. EMS print-out

New family members ages six and older will be required to produce their Social Security Card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the PHA.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must show proof they have applied to Social Security for a replacement card. The applicant/participant or family member will have an additional thirty business days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least sixty-two years of age, the PHA may grant an extension for an additional sixty calendar days to a total of one-hundred twenty calendar days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to show they have applied for a Social Security Number.

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Chapter 8 VOUCHER ISSUANCE AND BRIEFINGS [24 CFR 982.302]

INTRODUCTION

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit and that families are provided with sufficient information to acquire knowledge regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will describe broadly the responsibilities of the owner, the family and the PHA's procedures and explain how to lease a unit. The family will also receive a briefing packet. The packet will provide more detailed information about the program. The information will include the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families and the policies for how changes in family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the PHA will issue vouchers to applicants whose eligibility has been determined. The issuance of vouchers must be within the dollar limitations set by the ACC budget.

The number of vouchers issued must ensure that the PHA stays as close as possible to one hundred percent (*one-hundred percent*) lease-up. The PHA performs a monthly calculation to determine whether applications can be processed, the number of vouchers that can be issued and to what extent the PHA can over-issue vouchers (*i.e., issue more vouchers than the budget allows*).

The PHA may over-issue vouchers only to the extent necessary to meet its leasing goals. All vouchers that are over-issued must be honored. If the PHA finds it is over-leased, it must adjust its future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in-group and/or individual meetings. Families that attend group briefings and still have the need for individual assistance will be referred to a housing coordinator. Individual briefings will be conducted for Family Unification Program (FUP) participants so that they may better understand the family obligations specific to this program as they relate to DCF and the PHA. Briefings will be conducted in English and, when necessary, in Spanish.

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The purpose of the briefing is to explain the documents in the voucher-holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their fullest advantage and it will prepare them to discuss the voucher program with potential owners and property managers.

Separate briefing sessions may be held for applicants who are eligible to participate in the Family Unification Program and Mainstream Housing Opportunities for Persons With Disabilities Program. Applicants will be informed of the requirements and family obligations specific to the Family Unification Program and the Mainstream Housing Opportunities for Persons With Disabilities Program. Briefings must be scheduled to accommodate applicants' employment schedules.

The PHA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings without prior notification and approval of the PHA may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their homes, upon request by the family, if this is required as a reasonable accommodation.

All clients who have been properly briefed will sign an acknowledgement indicating that they are aware of their mobility rights. They will indicate the communities (*if any*) to which they are interested in moving. The acknowledgement will be written in English and Spanish.

Follow-up Applicant Briefings

The PHA shall use its discretion in determining whether a participant shall be required to attend a briefing after the initial briefing. Follow-up briefings communicate new or revised information concerning families' rights or responsibilities. The PHA shall not use the follow-up briefing process to deny program participants continued access to the families' voucher.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher programs will comply with all HUD requirements. The PHA also includes other information and materials that are not required by HUD.

The family is provided with the following information and materials:

1. The voucher, with the term of the voucher indicated and the PHA policy for requesting extensions to the term of the voucher.

2. A description of the method used to calculate the housing assistance payment (HAP) for a family, information on the utility allowance and the payment standards for the voucher program.

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3. How the maximum allowable rent (MAR) is determined, including an explanation of rent reasonableness.

4. Guidance and factors to consider that assist the family in selecting a unit, such as proximity to employment, public transportation (*bus map for the region including current schedules*), schools, day care, shopping and the accessibility of services including social services. Guidance will also be provided to assist the family in evaluating prospective units, such as the condition of a unit, whether the rent is reasonable, the cost of tenant-paid utilities and energy efficiency of the unit.

5. An explanation of the geographical area that the family may lease a unit, including an explanation of portability. The applicant will indicate the towns that he or she is interested in living on a mobility notification form. The applicant will sign this form and receive a copy.

6. The Request for Tenancy Approval and a description of the procedure for requesting approval of a rental dwelling unit.

7. The PHA policy on providing information about families to prospective owners.

8. The subsidy standards**,** including when and how exceptions are made and how the voucher size relates to the unit size selected.

9. The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live," concerning how to select a unit that complies with HQS.

10. The HUD pamphlet on lead-based paint entitled "Protect Your Family From Lead in Your Home" and information about where blood level testing is available**.**

11. Information on federal, state and local equal opportunity laws, a list of Commission on Human Rights and Opportunities (CHRO) offices and brochures from the Connecticut Fair Housing Center and Statewide Legal Referral Services. The PHA will also include the pamphlet "Fair Housing: It's Your Right" and information such as the "take one, take all" law and the telephone number of the local HUD enforcement office.

12. A list of owners or other parties who may have suitable rental units available.

13. If the family includes a person with disabilities, notice that the PHA will assist in locating accessible units and a list of available accessible units known to the PHA.

14. The family obligations under the program.

15. The grounds that the PHA may terminate assistance for a participant family because of family action or failure to act.

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16. PHA informal hearing procedures, including when the PHA is required to offer a participant family the opportunity for an informal hearing and how to request the hearing.

17. An owner's handbook, an HQS checklist and a sample HAP contract.

18. Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights and owner failure to repair.

19. The family's rights as a tenant and as a program participant.

20. Requirements for reporting changes occurring between certifications.

21. Information on security deposits.

22. A map showing areas representing various income levels for the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

23. The publication *Things You Should Know (HUD–1140 - OIG)* that explains types of actions a family must avoid and the penalties for program abuse.

24. Information concerning Reasonable Accommodation and how to make application if necessary

Other Information to be Provided at the Briefing [24 CFR 982.301(a)]

The person conducting the briefing will describe how the program works and the relationship between the family and the owner, the family and the PHA and the PHA and the owner.

The briefing presentation emphasizes:

1. Family and owner responsibilities.

2. The role of DSS in monitoring the program (which may include an HQS inspection by DSS staff).

3. How portability works for families eligible to exercise portability.

4. Advantages in moving to an area with a low concentration of poor families if the family is living in a high poverty census tract in the PHA's jurisdiction.

5. Exercising choice in residency.

6. Choosing a unit carefully and only after due consideration.

7. The Family Self-Sufficiency (FSS) program and its advantages.

DRAFT

8. Mobility services.

If the family includes a person with disabilities, the PHA will ensure compliance with CFR 8.6 to ensure effective communication.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW-INCOME OR MINORITY CONCENTRATION [SEMAP Indicator]

At the briefing, families are encouraged to search for housing in non-impacted areas and the PHA will assist families who wish to do so. The PHA will have available, through subscription or by other means (*including the internet*), copies of area newspapers. The PHA will also maintain a town-by-town directory of suburban owners, compile a weekly list of rental openings in each town and conduct regular canvassing by telephone of rental agencies and suburban owners in order to identify and maintain a list of viable suburban rental units for families seeking housing.

The mobility services provided may include:

1. Direct contact with owners.
2. Counseling with the family.
3. Providing information about services in various non-impacted areas.
4. Meeting with neighborhood groups to promote understanding.
5. Formal or informal discussions with owner groups
6. Formal or informal discussions with social service agencies
7. Meeting with rental referral companies or agencies
8. Meeting with fair housing groups or agencies

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The PHA will give participants a copy of HUD form 903 to use in the event that they decide to file a complaint. When housing discrimination is alleged, PHA staff will help clients who require assistance in filling out discrimination complaint forms by referring them to the appropriate legal authority or legal services representative.

Each administering agency shall establish procedures for tracking reports of housing discrimination. Logs of all reported instances of housing discrimination will be maintained and forwarded to the Connecticut Fair Housing Center on a quarterly basis.

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E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

Security deposits charged by owners may not exceed those charged to unassisted tenants (*or the maximum prescribed by state law, (i.e., two-month's rent or one-month's rent if the tenant is 62 or older)*.

For lease-in-place families, responsibility for the first and last month's rent is not considered a security deposit issue**.** In these cases, the owner should settle the issue with the tenant before the beginning of assistance.

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher that represents a contractual agreement between the PHA and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program that occurs when the lease and contract become effective.

Expirations

The voucher is valid for a period of at least ninety calendar days from the date of issuance. The family must submit a Request for Tenancy Approval within the ninety-day period, unless an extension has been granted by the PHA or the voucher will expire (*i.e., the family will lose the voucher*).

If the voucher expired or was not extended by the PHA or expired after an extension, the family is denied assistance. The family will not be entitled to a review or a hearing. If the family is currently assisted, they may remain as a participant in their unit if an assisted lease and contract are in effect.

Suspensions

When a Request for Tenancy Approval is received, the PHA will suspend or stop the clock on the term of the voucher and will not deduct the number of business days required to process the request.

Extensions

The PHA will extend the term of the voucher up to one-hundred calendar days from the beginning of the initial term. If the family needs and request an extension and it is granted, it will be granted in thirty-day increments not to exceed three extensions. Approval of each extension should be granted by a housing supervisor.

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Extensions are granted at the discretion of the PHA primarily for the following reasons:

1. The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA through its mobility services, throughout the initial ninety-day period. A completed search record is required.

2. The family was prevented from finding a unit due to the disability accessibility requirement of a family member.

Special Extensions

Special extensions beyond the one-hundred eighty day maximum search time may be granted by the PHA, but only in cases where there are circumstances documented and verified that are beyond the family's control and that affect the family's ability to find suitable housing within the initial ninety calendar days and subsequent allowable extensions.

The housing supervisor must review the family's search record and all documentation provided by the family to verify and support the request. The housing supervisor shall approve or disapprove the special extension. If the family does not provide proper documentation, a special extension will not be granted.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the PHA office to request assistance. Voucher holders will be notified at their briefing session that the PHA periodically updates the listing of available units and shall be told how the updated list may be obtained.

The PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation or the division of the family and the new families cannot agree as to that new family unit should continue to receive the assistance and there is no determination by a court, the PHA shall consider the following factors to determine that of the families will continue to be assisted:

1. Which of the two new family units has custody of dependent children?

2. Which family member was the head of household when the voucher was initially issued (*listed on the initial application*).

3. The composition of the new family units and that unit contains elderly or disabled members.

DRAFT

4. Whether domestic violence was involved in the breakup.

5. Which family members remain in the unit.

6. Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the PHA will terminate assistance based on failure to provide information necessary for a re-examination.

H. VOUCHER RETENTION [24 CFR 982.315]

A voucher may be retained by another household member only if the following conditions are met:

1. The current voucher holder is deceased or absent due to incarceration or absent due to confinement in a medical facility without the expectation of return to the unit and

    a. The household member has reached the age of majority and is related by blood or law to the voucher holder, and

    b. The household member was included on the voucher at the time of death, incarceration or confinement, or

2. The current voucher holder is deceased or absent due to incarceration or absent due to confinement in a medical facility without the expectation of return to the unit and

    The remaining household member(s) is/are minors who were a household member(s) at the time of the death or absence and

    a. Has been awarded emancipated minor status or

    b. Has been placed in the care of another adult to be brought into the unit by action of the judicial system or the state child protection agency.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

The PHA will assess all family eligibility factors before issuing a new voucher. All changes in family eligibility factors will be reflect in the new voucher.

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Chapter 9 REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION [24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families with timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing the use of HUD funds by assisting to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/owner who is willing to enter into a housing assistance payment (HAP) contract with the PHA. This chapter defines the types of eligible housing, the PHA's policies that pertain to initial inspections, lease requirements, owner disapproval and the processing of requests for tenancy approval.

A. REQUEST FOR TENANCY APPROVAL [24 CFR 982.302, 982.305(b)]

The request for tenancy approval (RTA) and a copy of the proposed lease, including the HUD-prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the request for tenancy approval in the form and manner required by the PHA.

The request for tenancy approval must be signed by both the owner and voucher-holder.

The PHA will not permit the family to submit more than one RTA at a time.

The PHA will review the proposed lease and the RTA to determine whether they are approvable. The RTA will be approved if:

1. The unit is an eligible type of housing.
2. The unit meets HUD's Housing Quality Standards (*and any additional criteria as identified in this Administrative Plan*).
3. The rent is reasonable.
4. The security deposit is approvable in accordance with any limitations in this plan.
5. The proposed lease complies with HUD and PHA requirements (*see "Lease Review" section below*).
6. The owner is approvable and there are no conflicts of interest (*see "Owner Disapproval" section below*).

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In addition to the above, at the time a family initially receives assistance in a particular rental unit (*i.e., new admissions and moves*), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of the rent may not exceed forty percent of the family's monthly adjusted income (*see Chapter 11 of this Administrative Plan, "Owner Rents, Rent Reasonableness and Payment Standards"*).

Disapproval of Request for Tenancy Approval

If the PHA determines that the request cannot be approved for any reason, the owner and the family will be notified in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given no more than fifteen business days to submit an approvable RTA from the date of disapproval.

When, for any reason, an RTA is not approved, the PHA will furnish another RTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]

The PHA will approve any of the following types of housing in the voucher program:

1. All approved structure types can be utilized.

2. Manufactured homes where the tenant leases the mobile home and the pad.

3. Manufactured homes where the tenant owns the mobile home and leases the pad.

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad.

The PHA may not permit a voucher holder to lease a unit that is receiving project-based Section 8 assistance or any other duplicative rental subsidy subsidies.

C. LEASE REVIEW [24 CFR 982.308]

The PHA will review the lease, particularly noting *whether any optional charges are approvable and* whether it complies with regulations and state/local law. The tenant also must have legal capacity to enter into a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the request for tenancy approval.

The terms and conditions of the owner's lease must be consistent with state and local law.

The lease must specify:

1. The names of the owner and all tenants and

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2. The address of the unit rented (*including apartment number, if any*) and

3. The amount of the monthly rent to owner and

4. The utilities and appliances to be supplied by the owner and

5. The utilities and appliances to be supplied by the family.

The HUD-prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

The owner's lease must include the lead warning statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member or any guest, on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that the owner may evict family when the owner determines that:

1. Any household member is illegally using a drug; or

2. A pattern of illegal use of drug by any household member exists that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must also provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

1. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (*including property management staff residing on the premises*);

2. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

3. Any violent criminal activity on or near the premises by a tenant, household member or guest; or

4. Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is:

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the laws of the place from that the individual flees; or

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2. Violating a condition of probation or parole imposed under federal or state law.

House rules of the owner may be attached to the lease as an addendum, provided they are approved by the PHA to ensure they do not violate any fair housing provisions and do not conflict with the lease addendum.

Actions Before Lease Term

All of the following must be completed before the beginning of the initial term of the lease for a unit:

1. The PHA has inspected the unit and has determined that the unit satisfies the HQS;

2. The owner and tenant have executed the lease; and

3. The PHA has approved leasing of the unit in accordance with program requirements.

D. SEPARATE AGREEMENTS

Separate agreements between the tenant and the owner are legal unless they require additional rent or are for items normally included in the rent of unassisted families or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (*other than range and refrigerator*) and other items that are not included in the lease if the agreement is in writing and approved by the PHA.

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (*such as air conditioning, dishwasher or garage*) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into later, they must be approved by the PHA and attached to the lease.

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E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See Chapter 10 of this Administrative Plan, "Housing Quality Standards and Inspections."

F. RENT LIMITATIONS [24 CFR 982.507]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the PHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the PHA.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than forty percent of the family's monthly-adjusted income, the PHA will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved by negotiations with the owner, the PHA will continue processing the request for tenancy approval and lease. If the revised rent involves a change in the provision of utilities, a new request for tenancy approval must be submitted by the owner.

If the owner does not agree on the rent to owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease/tenancy is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the PHA will furnish prospective owners with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the owner at the family's current and prior address.

The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

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The PHA will inform owners that it is the responsibility of the owner to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units and other factors related to the family's suitability as a tenant.

A statement of the PHA's policy on release of information to prospective owners will be included in the briefing packet that is provided to the family.

The PHA will provide documented information regarding the family's tenancy history for the past two years, if available, to prospective owners upon written request from the owner.

The PHA will provide the following information based on documentation in its possession:

1. Eviction history (*documenting the disposition of the eviction*).

2. Damage to rental units, including independent verification.

The information will be provided for the past two years.

The information will be provided in writing.

Only the housing supervisor may provide this information. The PHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See Chapter 16 of this Administrative Plan, "Owner Disapproval and Restriction."

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) BEFORE HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total tenant payment (TTP) before the effective date of the HAP contract at admission, the information will be verified and the TTP will be re-calculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP contract, unless verifications are more than sixty calendar days old.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The PHA prepares the housing assistance payment (HAP) contract and lease for execution. The family and the owner will execute the lease and the owner and the PHA will execute the HAP contract. Copies of these documents will be furnished to the parties who signed the respective documents. The PHA will retain a copy of all signed documents.

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The PHA will make every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than sixty calendar days after commencement of the lease term and no payments will be made until the contract is executed.

The following PHA representative is authorized to execute a contract on behalf of the PHA:

The Commissioner of the Department of Social Services or his or her designee.

Owners must provide the current street address of their residence (*not a post office box*). If families lease properties owned by relatives, the owner's current address will be compared to the address of the subsidized unit.

An owner must provide his or her social security number.

The owner must provide a business or home telephone number.

Unless their lease was effective before June 17, 1998, a family may not lease a property owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

L. PROOF OF OWNERSHIP

Owners must also submit proof of ownership of the property, such as a property deed, tax bill, online printout from city/town assessor's office or a mortgage statement (*include the volume and page number from the most recent transaction in the municipal land records*) and a copy of the management agreement if the property is managed by a management agent.

M. CHANGE IN OWNERSHIP

See Chapter 16 of this Administrative Plan, "Owner Disapproval and Restriction."

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Chapter 10 HOUSING QUALITY STANDARDS AND INSPECTIONS [24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD-required minimum standards of quality for tenant-based programs. Rental units must meet HQS both at initial occupancy and during the term of the lease. HQS apply to the building and premises, as well as to the unit. All units must pass the HQS inspection on or before the beginning date of the assisted lease and HAP contract.

The PHA will inspect each unit under contract at least annually. Annually, the PHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP. The purpose of the inspections is to insure that the required standards of the PHA are maintained and to assure consistency in the program of the PHA. This chapter describes the PHA's procedures for performing HQS inspections and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and the family and the consequences of noncompliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements.

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

All utilities must be in service before the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the HQS inspector will notify the owner or the tenant (*whoever is responsible for the utilities, according to the RTA*) to have the utilities turned on.

The inspector will either schedule or conduct a re-inspection or the owner and the tenant shall both certify that the utilities are in service**.**

If the tenant is responsible for supplying the stove and/or the refrigerator, the PHA will allow the stove and/or the refrigerator to be placed in the unit after the inspection if, after the unit has passed all other HQS, the owner and the tenant certify that the appliances are in the unit and working according to HQS. The PHA will not conduct a re-inspection that event.

There are four types of inspections the PHA will perform:

1. Initial/Move-in – Conducted when the Request For Tenancy Approval has been received and accepted. Inspection must not be over thirty calendar days old.

2. Annual – Must be conducted before the HAP contract anniversary date.

3. Special/Complaint – At request of owner, family or an agency or third party.

4. Quality Control – to maintain quality standards within the program.

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B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]

Timely Initial HQS Inspection

The PHA will inspect the unit, determine whether the unit satisfies HQS and notify the owner and the tenant of the determination within a reasonable amount of time.

The PHA will conduct initial HQS inspections for the owner and the tenant within ten business days of receipt of the RTA.

The initial inspection will be conducted to:

1. Determine if the unit and property meet the HQS defined in this plan.

2. Document the current condition of the unit in order to assist in future evaluations of whether the condition of the unit exceeds normal wear and tear.

3. Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial HQS inspection, the owner and the tenant will be advised to notify the PHA once repairs are completed.

A notice will be forwarded to the owner listing the failures and a copy of that notice will be forwarded to the tenant.

On an initial inspection, the owner will be given up to thirty calendar days to correct the items noted as failing HQS unless, at the inspector's discretion and depending on the amount and complexity of work to be done, additional time will be given.

The owner will be allowed up to two re-inspections for repair work to be completed. The PHA may choose to afford the owner additional opportunities to comply based on mitigating circumstances.

If unit fails an initial inspection due to deteriorated paint surfaces, the tenant will not be allowed to move in until corrective action has been taken and the apartment has passed inspection.

If the time-period given by the inspector to correct the repairs has elapsed or if the maximum number of failed re-inspections has occurred, the tenant must select another unit.

C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

The PHA conducts an inspection in accordance with HQS annually, at least thirty calendar days before the anniversary date of the HAP contract. Special inspections may be scheduled between anniversary dates.

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HQS deficiencies that are the cause of a unit failure must be corrected by the owner unless it is a failure that the tenant is responsible.

The tenant must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551 (d)]

The PHA will work with the tenant to accommodate the tenant's schedule.

The PHA will notify the tenant in writing at least five business days before the inspection.

Inspection – The tenant is notified of the date and time of the inspection appointment by mail. If the tenant is unable to be present, he or she must reschedule the appointment so that the inspection is completed within seven business days.

In the case of a no entry, the inspection company will reschedule the next inspection within fourteen business days of that event.

If the tenant does not contact the PHA to reschedule the inspection or if the tenant misses two inspection appointments without good cause such as emergency, illness or disability, the PHA will consider the tenant to have violated a family obligation and his or her assistance will be terminated in accordance with the termination procedures in the administrative plan. The PHA may choose to afford the tenant additional opportunities to comply based on mitigating circumstances.

Time Standards for Repairs

1. Emergency items that endanger the family's health or safety must be corrected by the owner or tenant within twenty-four hours of notification.

2. For non-emergency items, repairs must be made within thirty calendar days.

3. For major repairs, the director may approve an extension beyond thirty calendar days.

Rent Increases

Increases in the rent paid to the owner may not be approved if the unit is in a failed condition.

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time, the family or owner notifies the PHA that the unit does not meet HQS, the PHA will conduct an inspection.

The PHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

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The PHA will inspect only the items that were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the anniversary date is within one-hundred twenty calendar days of a special inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality control inspections will be performed by the supervisor on the number of files required by SEMAP. The purpose of quality control inspections is to ascertain that each inspector is conducting accurate and complete inspections and to ensure that there is consistency among inspectors in the application of the HQS.

The sampling of files chosen for quality control will include recently completed inspections (*conducted within the prior three months*), a cross-section of neighborhoods and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The PHA adheres to the acceptability criteria in the program regulations and HUD inspection booklet with the additions described below:

Security

1. 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.

2. Owners are responsible for providing batteries and for replacing (*old*) non-functioning batteries for battery-powered (*units*) smoke detectors or fire detectors. Tenants will be instructed not to tamper with smoke detectors or remove batteries under penalty of law (*§53a-117a. of the Connecticut General Statutes, Criminal Mischief in the fourth degree, a Class C misdemeanor*).

3. Smoke detectors or fire detectors are required in attics or crawl spaces if heating or cooling equipment is located in the attic or crawl space.

4. Ground Fault Circuit Interrupters (GFCI) are required for all receptacles located within six feet of a water source in the kitchen or bathroom (*with the exception of electrical outlets located on medicine cabinets*).

Bedrooms

1. A room for sleeping of at least seventy square feet in size.

DRAFT

2. Rooms for sleeping with emergency exit capability.

3. Rooms for sleeping with two electrical outlets or one electrical outlet and one light fixture.

4. Rooms for sleeping with a door or other partition that affords the space privacy from the rest of the unit.

5. Rooms for sleeping not in basements or attics unless they meet local code requirements.

Modifications

Modifications or adaptations made to a unit (*due*) to accommodate a person with a disability must meet all applicable HQS and building codes.

Admittance to Basement

Owners are required to allow the inspector access to the basement to inspect the heating system. If the owner does not allow access, he or she may instead present a safety inspection certificate from a local public agency or evidence that the heating equipment was serviced recently and is in good working order. The evidence of recent inspection or service must not be over one year old.

G. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]

The following items are considered to be of an emergency nature and must be corrected by the owner or tenant (*whoever is responsible*) within twenty-four hours of notice by the inspector:

1. Lack of security for the unit

2. Waterlogged ceiling in imminent danger of falling

3. Major plumbing leaks or flooding

4. Natural gas leak or fumes

5. Electrical problem that could result in shock or fire

6. No heat between November 1st and April 15th

7. Lack of functioning toilet

8. Non-operational smoke detector

DRAFT

Failures will be identified at the inspection if the owner is present or the owner will be notified by fax, email or telephone where possible. A letter marked urgent with an attachment listing unit failures will also be sent to the owner.

1. The attachment will identify whether the failure is a twenty-hour emergency repair item or a thirty-day repair item.

2. The letter will inform owners that items marked "24 hour emergency repair" must be addressed immediately and the owner must fax or call the inspection firm within twenty hours verifying the repair has been completed.

3. The PHA will re-inspect the unit within ten business days after notification by the owner if only twenty-four hour repairs were required.

4. If other non-emergency repairs were also required, the PHA will re-inspect when the owner indicates the remaining repairs have been completed.

The PHA may give a short extension (*not more than forty-eight additional hours*) whenever the responsible party cannot be notified or if it is impossible to effect the repair within the twenty-four-hour period.

In those cases where there is leaking gas, potential of fire or some other threat to public safety and the responsible party cannot be notified, or it is impossible to make the repair, the PHA will notify the proper authorities.

If the emergency repair item(s) is not corrected in the period required by the PHA and the owner is responsible, the housing assistance payment will be abated.

If the emergency repair item(s) is not corrected in the period required by the PHA and it is an HQS violation caused by a breach of a family obligation, the PHA will terminate the assistance to the family.

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards and the owner is responsible for completing the necessary repair(s), he or she will be notified in writing of the HQS violation(s). If the owner does not make the corrections in the period specified by the PHA, the assistance payment to the owner will be abated.

Suspension of Housing Assistance Payments

A notice of suspension will be sent to the owner and abatement will be effective as of the first of the following month.

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The PHA will inspect units under suspension within six business days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. This pro-rated portion of the HAP will be included with the next month's payment.

The family will be notified of the re-inspection date.

No retroactive payments will be made to the owner for the period of time during which the rent was abated and the unit did not comply with HQS. The notice of suspension will state that the tenant is not responsible for the PHA's portion of the rent that is abated.

Extension of Time to Complete Repairs

The PHA will grant an extension in lieu of abatement in the following cases:

1. The owner has a good history of HQS compliance.

2. There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.

3. The repairs are expensive (*such as exterior painting or roof repair*) and the owner needs time to obtain the funds.

4. The repairs must be delayed due to climate conditions.

The extension will be made for a period to be determined by the PHA. At the end of that time, if the work is not completed, the PHA will begin the abatement.

Termination of Contract

If the owner is responsible for repairs and fails to correct all the deficiencies cited before the end of the suspension period, the owner will be sent a HAP Contract Proposed Termination Notice. Before the effective date of the termination, the suspension will remain in effect.

If repairs are completed before the effective termination date, the termination will be rescinded by the PHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404]

Certain HQS deficiencies are considered the responsibility of the family:

1. Utilities paid by the tenant that are not in service.

2. Failure to provide or maintain family-supplied appliances.

DRAFT

3. 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 that could not be charged against the tenant’s security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance that basis.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the issue will be noted in the family's file.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family make any repair(s) or corrections within thirty calendar days of notice for non-emergency violations and within twenty-four hours of notice for emergency violations. If the repair(s) or correction(s) is not made in this period, the PHA will terminate assistance to the family. Extensions of the time limits in these cases must be approved by a supervisor. The owner's rent will not be abated for items that are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated. The owner will be notified forty-five calendar days before termination.

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Chapter 11 OWNER RENTS, RENT REASONABLENESS AND PAYMENT STANDARDS [24 CFR, 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations that were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant Based Assistance Program. These amendments became effective on October 1, 1999 that is referred to as the "merger date". These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher (HCV) Program.

All Section 8 participant families have been transitioned to the HCV Program. Rent calculation methods for the HCV are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the responsibility of the PHA to ensure that rents charged by the owners of units occupied by HCV participants are reasonable based upon a comparison with rents charged by the owners of comparable unassisted units in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the PHA's procedures for determination of rent reasonableness, payments to owners, adjustments to the payment standards and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The amount of rent paid to an owner (*i.e., the rent to owner or the contract rent*) is limited only by rent reasonableness. The PHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard (*i.e., the payment standard*) at initial occupancy (*24 CFR 982.508*). At the time when a family initially receives tenant based assistance for occupancy of a *particular* dwelling unit, whether that family is a new admission to the HCV or is assisted through a move to a different unit than that that they previously occupied, if the gross rent (*i.e., the contract rent plus the amount of the utility allowance*) for the unit exceeds the applicable payment standard for the family, the family share may not exceed forty percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not request an increase in the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed, the PHA begins to process a monthly housing assistance payment (HAP) to the owner. The effective date and the amount of the HAP are communicated

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by letter to both owner and tenant. A HAP register will be used as the basis for monitoring the accuracy and timeliness of payments. Changes are made to the HAP register effective the following month. Checks are disbursed by the PHA to the owner each month.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment order has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the housing assistance payment made by the PHA to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA.

Owners who do not return excess payments will be subject to penalties as outlined in Chapter 17 of this Administrative Plan, "Owner or Family Debts to the PHA."

Late Payments to Owners

The PHA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the control of the PHA, such as a delay in the receipt of program funds from HUD. The PHA will use administrative fee income or the administrative fee reserve as its only source for any late payment penalty paid to an owner. The PHA will not use any program funds for the payment of late payment penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The PHA will determine and document on a case-by-case basis that the rent approved for a unit is reasonable in comparison with rent charged for other comparable unassisted units in the market. This applies to all programs.

The PHA will not approve tenancy until it determines that the initial rent to owner is a reasonable rent. The PHA must re determine the reasonable rent before any increase in the rent to owner. The PHA must also re determine the reasonable rent if there is a five percent decrease in the published fair market rent (FMR**)** for the unit size rented by the family that goes into effect sixty business days before the contract anniversary, as compared with the FMR in effect one year before the contract anniversary.

The PHA must re determine rent reasonableness if directed to do so by HUD and/or if based on a need identified by the PHA's auditing system. The PHA may elect to re determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re determined by the PHA

The owner will be advised that by accepting each monthly housing assistance payment she or he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

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If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere. The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries to owners, market surveys and other available sources.

Because the PHA's jurisdiction covers the entire State of Connecticut, the market areas for rent reasonableness are defined sectors with that jurisdiction that include boroughs, villages, districts and neighborhoods. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

1. Size (*number of bedrooms/square footage*)
2. Location
3. Quality
4. Age of unit
5. Unit type
6. Utilities
7. Amenities

Rent Reasonableness Methodology

Information is gathered on rental units throughout the state by defined market areas and each unit is rated, using the PHA's rent reasonableness system. The average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared to those of comparable unassisted units in the database.

The PHA has contracted for or purchased a statewide rental housing market database and rent reasonableness system. The system will incorporate and address all of the above factors.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The payment standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations, the PHA has set the voucher payment standard amount between one-hundred and one-hundred ten percent of the fair market rents (FMR) published by HUD. The PHA reviews the appropriateness of the payment standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the payment standard is always within the basic range of ninety percent to one-hundred ten percent of the new FMR, unless an exception payment standard has been approved by HUD.

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The PHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish payment standard amounts for each unit size (as determined by the number of bedrooms in a unit). The PHA may have a higher payment standard within the its jurisdiction if that is needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the range of ninety to one-hundred ten percent of FMR, as funding permits.

The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with a disability or disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment standards may be adjusted, within HUD regulatory limitations, to increase housing assistance payments in order to keep families' rents affordable. The PHA will not raise payment standards solely to make “high end” units available to voucher holders. The PHA may use some or all of the measures noted below in making its determination as to whether an adjustment should be made to the payment standards.

Assisted Families' Rent Burdens

The PHA will review its voucher payment standard amounts at least annually to determine whether more than forty percent of families in a particular unit size are paying more than thirty percent of their annual adjusted income for rent.

If it is determined that particular unit sizes in the PHA’s jurisdiction have payment standard amounts that are creating rent burdens for families, the PHA will modify its payment standards for those particular unit sizes.

The PHA will establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of concentration of high poverty and low-income.

Quality of Units Selected

The PHA will review the quality of units selected by participant families when making the determination of the proportion of their income that families are paying for housing, in order to ensure that payment standard increases are only made when they are needed to reach the mid-range of the market.

PHA Decision Point

The PHA will review the average proportion of their income that HCV participant families are paying for rent. If more than thirty-five percent of families are paying more than thirty percent of monthly-adjusted income for a particular unit size, the PHA will determine whether families

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are renting units larger than their voucher size and whether families are renting units that exceed HUD's HQS and any additional standards added by the PHA in this Administrative Plan.

If families are paying more than thirty percent of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the PHA will continue (*increasing/to increase*) the payment standard.

Rent to Owner Increases

The PHA may review a sample of unassisted units to determine both:

1. how often owners are increasing rents and

2. the average percent of increase by bedroom size.

Time to Locate Housing

The PHA may also consider the average time-period for families to lease up under the HCV. If more than twenty-five percent of voucher holders are unable to locate suitable housing within the initial term of the voucher and the PHA determines that this is due to rents in the jurisdiction being unaffordable for families, even those with an HCV voucher, the payment standard may be adjusted. The PHA will maintain records of those families who were unsuccessful in finding units within the period allowed by the PHA.

Lowering of the Payment Standard

Lowering the FMR may require an adjustment of the payment standard. Additionally, statistical analysis may reveal that the payment standard should be lowered. In any case, the payment standard will not be set below ninety percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the payment standard, the PHA will review the budget to determine the impact that projected subsidy increases would have on the funding available for the program and on the number of families served.

For this purpose, the PHA will compare the number of families who could be served under a higher payment standard with the number assisted under the payment standard currently in place.

File Documentation

The PHA will retain a file for at least three years in order to document the analysis and findings used to justify whether or not the payment standard was changed.

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F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the PHA must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation 24 CFR 982.503(c).

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [(24 CFR 982.308(g)]

The owner is required to notify the PHA in writing at least sixty calendar days before any change in the rent amount to the owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

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Chapter 12 RE-EXAMINATIONS [24 CFR, 982.516]

INTRODUCTION

In accordance with HUD requirements, the PHA will re-examine the income and household composition of all families at least annually. Families will be provided with accurate annual and interim rent adjustments. Re-examinations and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This chapter defines the PHA's policy for conducting annual re-examinations and coordinating annual activities. It also explains the interim reporting requirements for families and the standards for timely reporting of changes.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

The PHA must conduct two activities on an annual basis. These activities will be coordinated around the anniversary date of the HAP contract:

1. Re-examination of income and family composition

2. HQS inspection

The PHA produces a monthly listing of assisted units under contract to ensure that timely reviews of housing quality and of factors related to total tenant payment and family share can be made.

Re-examination of the family's income and composition must be conducted at least annually.

Annual inspections – see Chapter 10 of this Administrative Plan, "Housing Quality Standards and Inspections."

Rent Adjustments – see Chapter 11 of this Administrative Plan, "Owner Rents, Rent Reasonableness and Payment Standards."

B. ANNUAL RE-EXAMINATION [24 CFR 982.516]

Families are required to be re-examined at least annually.

Moves Between Re-examinations

When families move to another dwelling unit, an annual re-examination will be scheduled (*unless a re-examination has occurred in the last one-hundred twenty calendar days*) and the anniversary date will be changed.

Income limits are not used as a test for continued eligibility at re-examination.

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Re-examination Notice to the Family

The PHA will maintain a re-examination tracking system and the household will be notified by mail of the date and time for their interview at least one-hundred twenty calendar days in advance of the anniversary date. If requested as a reasonable accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The PHA's procedure for conducting an annual re-examination will be to schedule the date and time of appointment(s) and mail notification to the family.

Completion of Annual Re-examination

The PHA will have all re-examination for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty calendar days before the scheduled date of the change in family rent.

Persons with Disabilities

Persons with disabilities who are unable to come to the PHA's office will be granted an accommodation by conducting the interview at the person's home or by mail**,** upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]

The PHA has established appropriate re-examination procedures necessary to ensure that the income data provided by families is complete and accurate.

The PHA will require the family to complete a personal declaration form before all re-examination interviews. The family will be given no more than thirty business days to complete this form and return it in the return-addressed envelope provided. Before the interview, the PHA will run an EIV, EMS-CAP and DOL report for comparison to the personal declaration form.

Requirements to Attend

Only the head or co-head of household will be required to attend the re-examination interview. If the head of household is unable to attend the interview, the appointment will be re-scheduled.

DRAFT

Failure to Respond to Notification of Re-examination

The written notification must state that family member is required to attend the interview. The family may call to request another appointment date up to forty-eight hours before the interview.

If the family does not appear for the re-examination interview and has not re-scheduled or made prior arrangements with the PHA**,** the PHA will re-schedule a second appointment.

If the family fails to appear for the second appointment and has not re-scheduled or made other prior arrangements, the PHA will send the family notice of termination and offer them an informal hearing

Exceptions to this policy may be made if the family is able to document:

1. an emergency situation that prevented it from canceling or attending the appointment or

2. if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the PHA will include instructions for the family to bring documentation of all liquid and non-liquid assets to the re-examination, as well as any additional information that may affect the family's re-examination status. All information brought to the PHA in person (*excluding third party*), will be date stamped and copies of the date stamped verification will be returned to the tenant.

Verification of Information

The PHA will follow the verification procedures and guidelines described in this plan. Verifications for re-examinations must be less than one-hundred twenty calendar days old.

Tenant Rent Increase

If the tenant rent increases, a thirty-calendar day notice is mailed to the family before the annual re-examination date.

If less than thirty calendar days are remaining before the scheduled effective date of the annual re-examination, the tenant rent increase will be effective on the first of the month following the thirty-day notice.

If there has been a misrepresentation or a material omission by the family or if the family causes a delay in the re-examination processing, there will be a retroactive increase in rent to the anniversary date.

DRAFT

Tenant Rent Decreases

If the tenant rent decreases because of an annual re-examination, it will be effective on the anniversary date or on the first day of the month following completion of the re-examination process, whichever is sooner.

If the family causes a delay so that the processing of the re-examination is not complete by the anniversary date, the rent change will be effective on the first day of the month following completion of the re-examination processing by the PHA.

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to the PHA between annual re-examinations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain PHA approval before all other additions to the household.

If any new family member is added, family income must include any income of the new family member. Participant requests to remove members from the household must be accompanied by proof of the new residence. The PHA will conduct a reexamination to determine any resulting changes to the household income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U. S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular re-examination after moving into the unit.

Interim Reexamination Policy

Families will be required to report all changes in income or assets within 30 calendar days or be subject to repayment or termination (*See Chapter 17 of this Administrative Plan, "Owner or Family Debts to the PHA"*).

The PHA will process interim re-examinations when families have an increase or decrease in their monthly gross income totaling at least one hundred dollars per month.

The PHA shall compare the last income documentation on file from the family (or family's annualized monthly income previously calculated) to the currently provided income documentation to determine whether an adjustment to the tenant's rental share shall be made.

PHA Errors

If the PHA makes a calculation error at admission to the program or at an annual re-examination, an interim re-examination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable**;** retroactive to when the decrease for the change would have been effective if calculated correctly.

DRAFT

D. OTHER INTERIM REPORTING ISSUES

An interim re-examination does not affect the date of the annual re-examination.

An interim re-examination will be scheduled and conducted for families with zero income every ninety calendar days.

If there is a change from welfare benefit income to employment income, the PHA will defer the family's rent increase for six months or until the family's next annual re-examination, whichever comes first. The purpose delaying the family's rent increase is to encourage families to move to self-sufficiency. This incentive will be provided only once to any family member and will not be provided to persons who work seasonally.

In the following circumstances, the PHA may conduct the interim re-examination by mail:

1. Changes that will not result in a change in tenant rent or voucher size.

2. Changes to income that are normal for the family, such as seasonal employment.

As a reasonable accommodation when requested, (*see Chapter 1 of this Administrative Plan, "Statement of Policies and Objectives"*).

Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly scheduled annual re-examinations.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

The PHA will not reduce the family share of the rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction" that is a reduction in benefits by the welfare agency specifically because of fraud in connection with the welfare program or non-compliance with an agency requirement to participate in an economic self-sufficiency program.

However, the PHA will reduce the rent if the welfare assistance reduction is a result of the expiration of a lifetime time limit on receiving benefits or a situation where the family has complied with welfare program requirements but cannot or has not obtained employment or a situation where a family member has not complied with other welfare agency requirements.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim re-examination, during the term of welfare benefits reduction (*as specified by the welfare agency*).

DRAFT

Definition of Covered Family

A covered family is a household that receives benefits for welfare or public assistance from a state or public agency program that requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "Imputed Welfare Income"

Imputed welfare income is the amount of annual income not actually received by a family (*because of a specified welfare benefit reduction*) that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the PHA, based on written information supplied to the PHA by the welfare agency, including:

1. the amount of the benefit reduction.

2. the term of the benefit reduction.

3. the reason for the reduction.

4. subsequent changes in the term or amount of the benefit reduction.

The family's annual income will include the imputed welfare income as determined at the family's annual or interim re-examination (*during the term of the welfare benefits reduction, as specified by the welfare agency*).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was or is imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the housing supervisor will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes a brief explanation of how the amount of imputed welfare income was determined and a statement that the family may request an informal hearing if they do not agree with the PHA determination.

Verification Before Denying a Request to Reduce Rent

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-

DRAFT

sufficiency or work activities requirements before denying the family's request for rent reduction.

The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

Cooperation Agreements [24 CFR 5.613]

The PHA will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial that will include an explanation for the PHA's determination of the amount of imputed welfare income and a statement that the tenant may request an informal hearing.

F. NOTIFICATION OF RESULTS OF RE-EXAMINATION [HUD Notice PIH 98-6]

The HUD Form 50058 will be completed and transmitted as required by HUD.

The notice of rent adjustment is mailed to the owner and the tenant. Signatures are not required by the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

G. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS [24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The PHA requires that families report interim changes in writing to the PHA within thirty calendar days of when the change occurs. Any information, document or signature that is needed to verify the change, must be provided within this period.

If the change is not reported within the required time-period or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The PHA will notify the family and the owner of any change in the HAP to be effective according to the following guidelines:

1. increases in the tenant rent are effective on the first of the month following at least thirty business days' notice.

DRAFT

2. decreases in the tenant rent are effective the first of the month following that that the change is reported. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

DRAFT

Procedures when the Change is Not Reported by the Tenant in a Timely Manner

If the family does not report the change as described under "Timely Reporting of Changes in Income and Assets," above, the family will have caused an unreasonable delay in the interim re-examination processing and the following guidelines will apply:

1. an increase in tenant rent will be effective retroactive to the date that it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a repayment agreement or make a lump sum repayment.

2. a decrease in tenant rent will be effective on the first of the month following the month that the change was reported.

Procedures when the Change is Not Processed by the PHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner, as described above. If the change is not made effective that date, the change is not processed by the PHA in a timely manner.

In this case, an increase will be effective after the required thirty business days' notice before the first of the month after completion of processing by the PHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective and the family will be credited for the amount.

H. CHANGES IN VOUCHER SIZE BECAUSE OF CHANGES IN FAMILY COMPOSITION [24 CFR 982.516(c)]

See Chapter 5 of this Administrative Plan, "Subsidy Standards."

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

Under the non-citizens rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants as of June 19, 1995 shall continue receiving full assistance if they meet all of the following criteria:

1. The PHA implemented the non-citizens rule before November 29, 1996 and

2. The head of household or spouse is a U. S. citizen or has eligible immigrant status and

3. All members of the family other than the head, the spouse, parents of the head or the spouse and children of the head or spouse are citizens or eligible immigrants. The

DRAFT

family may make a change in who is designated as the head of household in order to qualify under this provision.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information that eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file to the proper authorities for appropriate disposition. (*See Chapter 21, "Program Integrity Addendum"*)

DRAFT

Chapter 13 MOVES WITH CONTINUED ASSISTANCE (PORTABILITY) [24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction or, under portability procedures, to a unit outside of the PHA's jurisdiction. The regulations also allow the PHA the discretion to develop policies that define any limitations or restrictions on moves. This chapter defines the procedures for moves both within and outside of the PHA's jurisdiction. It also outlines the policies for restrictions and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach or because the lease was terminated by mutual agreement of the owner and the family.

The owner has given the family a notice to vacate or has commenced an action to evict the tenant or has obtained a court judgment or begun another process allowing the owner to evict the family (*unless assistance to the family will be terminated*).

The family has given proper notice of lease termination (*if the family has a right to terminate the lease on notice to owner*) for owner breach or otherwise.

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the PHA's jurisdiction during the initial term of assisted occupancy.

Families will not be permitted to move outside the PHA's jurisdiction under portability procedures during the initial term of assisted occupancy.

Families will not be permitted to move more than once in a twelve-month period.

The PHA will deny permission to move if there is insufficient funding for continued assistance.

The PHA will deny permission to move to if:

1. The family has violated a family obligation.
2. The family owes the (*or any*) PHA money.
3. The family has moved or been issued a voucher within the last twelve months.

DRAFT

The housing director may make exceptions to these restrictions if there is an emergency reason or other good cause for the move over that the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been re-examined within the last one-hundred twenty calendar days, the PHA will issue the voucher to move as soon as the family requests the move.

If the family does not locate a new unit, the family will not lose its assistance and may remain in the current unit so long as the owner permits and there is a HAP contract in place.

The annual re-examination date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions shall emphasize the family's responsibility to give the owner and the PHA proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate as specified in the lease and must give a copy of the notice of intent to vacate to the PHA simultaneously.

Time of Contract Change

A move within the same building or project or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance at the old unit stops at the end of the month that the tenant ceased to occupy the unit, unless proper notice was given to end a lease mid-month. Assistance will start at the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month that the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability provisions apply to families moving out of or into the PHA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a receiving PHA with a tenant-based

DRAFT

program. When a family requests to move outside of the PHA's jurisdiction, the request must specify the area to that the family wants to move.

If there is more than one PHA in the area that the family has selected a unit, the initial PHA will choose the receiving PHA.

Restrictions on Portability

Applicants

If neither the head nor the spouse had a domicile (*i.e., a legal residence*) in the PHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon issuance of a voucher, unless the PHA approves such move.

For a portable family that was not already receiving assistance in the PHA's tenant-based programs, the PHA must determine whether the family is eligible for admission under the receiving PHA's program.

Participants

After an applicant has leased-up in the jurisdiction of the initial PHA, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances:

1. the receiving and initial PHA agree to allow the move and

2. the family's move relates to an opportunity for education, job training or employment.

The PHA will not permit families to exercise portability:

1. If the family is in violation of a family obligation.

2. If the family owes money to the PHA.

3. If the family has moved out of its assisted unit in violation of the lease.

Receiving PHAs will be required to submit a copy of any hearing determination to the initial PHA within sixty business days.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The PHA will accept a family with a valid voucher from another jurisdiction and will either administer or absorb the voucher.

If the receiving PHA administers the voucher, the family will be issued a voucher by the receiving PHA. The term of the voucher issued by the receiving PHA will not expire before the

DRAFT

expiration date of any voucher issued by the initial PHA. The family must submit a request for tenancy approval for an eligible unit to the receiving PHA during the term of the voucher issued by the receiving PHA.

The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the jurisdiction of the receiving PHA, they must contact the initial PHA to request an extension.

The PHA may absorb vouchers if the number of such absorptions does not exceed fifty percent of households assisted by the PHA.

When the PHA does not absorb the incoming voucher, it will administer the initial PHA's voucher and the receiving PHA's policies will prevail.

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

The receiving PHA does not re-determine Section 8 eligibility for a family exercising portability when that family was already receiving assistance in the initial PHA's HCV program.

The PHA will issue a voucher according to its own subsidy standards. If the family experiences a change in family composition that would change the voucher size, the PHA will issue a voucher of the proper size based on its own subsidy standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

The receiving PHA will conduct a re-examination interview but will only verify the information provided if documents are missing or are over one-hundred twenty calendar days old, whichever is applicable, or there has been a change in the family's circumstances**.**

If the PHA conducts a re-examination of the family, it will not cause a delay in the issuance of a voucher.

If the family's income is such that a zero dollar subsidy amount is determined before lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at zero dollar assistance.

Requests for Tenancy Approval

A briefing will be mandatory for all portability families.

When the family submits an RTA, it will be processed using the PHA's policies. If the family does not submit an RTA or does not execute a lease, the initial PHA will be notified before the expiration of the voucher.

DRAFT

If the family leases up successfully, the receiving PHA will notify the initial PHA within sixty business days and the billing process will commence.

The receiving PHA will notify the initial PHA if the family fails to submit an RTA for an eligible unit within the term of the voucher.

If the PHA denies assistance to the family, the receiving PHA will notify the initial PHA within sixty calendar days and the family will be offered a review or hearing.

The receiving PHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the receiving PHA's jurisdiction under continued portability.

Regular Program Functions

The receiving PHA will perform all program functions applicable the tenant-based assistance program, such as:

1. Annual re-examinations of family income and composition;

2. Annual HQS inspection of the unit; and

3. Interim examinations when requested or deemed necessary by the receiving PHA.

Terminations

The receiving PHA will notify the initial PHA in writing of any termination of assistance within thirty calendar days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the receiving PHA, using the regular hearing procedures included in this plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies the receiving PHA that the family is in arrears or the family has refused to sign a repayment agreement, the receiving PHA will terminate assistance to the family.

Required Documents

As the receiving PHA, this PHA will require the documents listed on the HUD portability billing form from the initial PHA.

Billing Procedures

As the receiving PHA, this PHA will bill the initial PHA quarterly for housing assistance payments. The billing cycle for other amounts including administrative fees and special claims will also be quarterly, unless otherwise requested by the initial PHA.

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As receiving PHA, this PHA will bill one-hundred percent of the housing assistance payment, one-hundred percent of special claims and eighty percent of the initial PHA's administrative fee as indicated in the Federal Register's Annual Factors for Determining PHA Ongoing Fees, for each "portability" voucher leased as of the first day of the month.

As receiving PHA, this PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the receiving PHA of changes in the administrative fee amount to be billed.

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Chapter 14 CONTRACT TERMINATIONS [24 CFR 982.311, 982.314]

INTRODUCTION

The housing assistance payments (HAP) contract is the contract between the owner and the PHA that defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the PHA and/or the owner and the policies and procedures for such terminations.

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP contract shall be the same as the term of the lease. The HAP contract between the owner and the PHA may be terminated by the action of the PHA or it may be terminated by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month that the HAP contract is terminated. The owner must reimburse the PHA for any subsidies paid in error by the PHA for any period after the contract termination date.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month that the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate tenancy except for the grounds stated in the HUD regulations.

During the term of the lease, the owner may only evict for:

1. Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease or repeated violation of the terms and conditions of the lease;

2. Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the

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other residents or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

3. Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do.

Evidence of Criminal Activity

The owner may terminate tenancy and evict a family by judicial action for criminal activity by a covered person if the owner determines that the covered person has engaged in the criminal activity:

1. Regardless of arrest or conviction

2. Without satisfying the standard of proof used for a criminal conviction.

Termination of Tenancy Decisions

If the law and regulation permit the owner to take an action but do not require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

1. The seriousness of the offense

2. The effect on the community

3. The extent of participation by household members

4. The effect on uninvolved household members

5. The demand for assisted housing by families who will adhere to responsibilities

6. The extent to that the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action

7. The effect on the integrity of the program.

Exclusion of Culpable Household Member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

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Consideration of Rehabilitation

When determining whether to terminate tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

1. Is no longer participating in the activity

2. Has successfully completed a supervised drug or alcohol rehabilitation program

3. Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three actions listed above. Termination by the owner must be consistent with fair housing and equal opportunities as stated in 24 CFR 5.105.

The owner must provide the tenant with a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, a complaint, or other initial pleading used under state or local law to commence an eviction action.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The PHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit that the rent is reasonable and that the tenant complies with the contract.

If an eviction is not due to a serious or repeated violation of the lease and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY PHA [24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3), 982.455]

The term of the HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family or when the owner has breached the HAP contract (*see Chapter 16 of this Administrative Plan, "Owner Disapproval and Restriction"*).

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Termination Due to Abatement of Unit

The PHA will terminate the HAP contract thirty calendar days after the unit goes into abatement and the tenant will be issued a voucher to move. If the owner makes the required repairs after the HAP contract has been terminated, a new HAP contract and lease will be required for the family to remain.

The PHA may also terminate the contract if:

1. The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

2. Funding is no longer available under the ACC.

The contract will terminate automatically if one-hundred eighty calendar days have passed since the last housing assistance payment has been made to the owner.

Termination of Assistance Due to Lack of Funding

The PHA may terminate the HAP contract in accordance with HUD requirements, if the PHA determines that funding under the consolidated ACC is insufficient to support continued assistance for families in the program (*24 CFR 982.454*)

When funding under the consolidated ACC is insufficient, the PHA may take the following steps:

1. The PHA will determine if there are any other non-Section 8 Housing Assistance Payment (*HAP*) financial resources available to continue housing assistance on behalf of families currently subsidized and whether those resources should be utilized.

2. In the event ACC funding is insufficient and other financial resources are not available or a decision has been made not to utilize them,

    a. the PHA will determine the number of families that must be terminated using a "last on, first off" methodology.

    b. Households selected will receive a minimum of a thirty-calendar day notice of termination of assistance.

    c. Terminated families will be returned to the HCV waiting list in reverse order to that that they were removed. These families will receive first preference for vouchers from the waiting list.

When Section 8 funding becomes sufficient, families receiving subsidy through non-Section 8 funding will be reinstated first, before any assistance being offered to applicants on the waiting list.

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Notice of Termination

When the PHA terminates the HAP contract under the violation of HQS space standards, the PHA will provide the owner and family written notice of termination of the contract and the HAP contract terminates at the end of the calendar month that follows the calendar month that the PHA gives such notice to the owner.

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Chapter 15 DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the family obligations under the program, the grounds under which the PHA can deny or terminate assistance and the PHA's informal hearing procedures. This chapter describes when the PHA is required to deny or terminate assistance and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL OR TERMINATION [24 CFR 982.54, 982.552, 982.553 982.455]

If denial or termination is based on behavior resulting from a disability, the PHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Form of Denial or Termination

Denial of assistance for an applicant may include any or all of the following:

1. Denial of placement on the PHA waiting list;
2. Denying or withdrawing a voucher;
3. Refusing to enter into a HAP contract or approve tenancy;
4. Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP contract or approve tenancy;
2. Terminating housing assistance payments under an outstanding HAP contract; and
3. Refusing to process or provide assistance under portability procedures.

Mandatory Denial and Termination [24 CFR 982.54(d), 982.552(b), 982.553(a), 982.553(b)]

The PHA must deny assistance to applicants and terminate assistance for program participants if the family is under contract and one-hundred eighty calendar days (*or six months, depending on the HAP contract used*) have elapsed since the PHA's last housing assistance payment was made (*see Chapter 14 of this Administrative Plan, "Contract Terminations"*).

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The PHA must deny assistance to applicants and terminate assistance to program participants convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The PHA must deny admission to the program for applicants and terminate assistance for program participants if the PHA determines that any household member is currently engaging in illegal use of a drug. (*See Section B of this Chapter for the PHA's established standards*.)

The PHA must deny admission to the program for applicants and terminate assistance for program participants if the PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety or right to peaceful enjoyment of the premises by other residents (*see Section B of this Chapter for the PHA's established standards*).

The PHA must deny admission to the program for applicants if the PHA determines that any member of the household is on a governmental sex offender registry (*see Section B of this Chapter for the PHA's established standards regarding criminal background investigation and determining whether a member of the household is on a governmental sex offender registry*)**.**

The PHA must terminate program assistance for a family evicted from housing assisted under the voucher program for serious violation of the lease.

The PHA must deny admission to the program for an applicant or terminate assistance for a program participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

The PHA must deny admission to the program for applicants or terminate program assistance when required under the regulations to establish citizenship or eligible immigration status.

Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

The PHA will deny program assistance for an applicant or terminate program assistance for a participant for any of the following reasons:

1. The family violates any family obligation under the program as listed in 24 CFR 982.551.

2. Any family member violates the family obligation under 24 CFR 982.551 not to engage in any drug-related activity.

3. Any family member violates the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity (*See Chapter 21 of this Administrative Plan, "Program Integrity Addendum", for specific procedure*).

4. Any family member has been evicted from federally assisted housing in the last three years.

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

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

7. The family refuses to enter into a repayment agreement because of monies owed due to a program violation.

8. The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

9. The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

10. The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. At its discretion, the PHA may offer the family the opportunity to enter into a repayment agreement. The PHA will prescribe the terms of the agreement (*see Chapter 17 of this administrative plan, "Owner or Family Debts to the PHA"*).

11. The family participating in an FSS program fails to comply, without good cause, with the family's FSS contract of participation.

12. Any member of the family engages in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents (*see section B of this chapter*).

13. Any member of the family commits drug-related criminal activity or violent criminal activity (see section B of this chapter and 982.553 of the regulations).

14. The family has threatened or engaged in abusive or violent behavior toward PHA personnel. "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence. "Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate may be cause for termination or denial.

15. Actual physical abuse or violence of PHA personnel is cause for termination.

Refer to Chapter 2 of this administrative plan, "Eligibility for Admission," at section F, "Other Criteria for Admissions," for further information

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B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the State of Connecticut Department of Social Services to fully endorse and implement a policy that is designed to:

1. Help create and maintain a safe and drug-free community;
2. Keep our program participants free from threats to their personal and family safety;
3. Support parental efforts to instill values of personal responsibility and hard work;
4. Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and
5. Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

Administration

All screening procedures shall be administered fairly and in such a way as to not violate rights to privacy or discriminate based on race, color, nationality, religion, familial status, disability, gender or other legally protected groups.

This policy will be posted on the PHA's bulletin board and copies made readily available to applicants and participants upon request.

Screening of Applicants

In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents and as required by Notice 96-27, the PHA will endeavor to screen applicants as thoroughly and fairly as possible.

Such screening will apply to any member of the household who is 18 years of age or older or who is an emancipated minor.

HUD Definitions

Covered person, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (*21 U.S.C. 802*).

DRAFT

Drug-related criminal activity means the illegal manufacture, sale, distribution or use of a drug or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Guest, for purposes of this Chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and any PHA-approved live-in aide(s).

Other person under the tenant's control, for the purposes of the definition of covered person, for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (*as defined in this chapter*) in the unit, is (*or was at the time of the activity in question*) on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

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.

Standard for Violation

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determines there is probable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

Engaged in or engaging in violent criminal activity means any act within the past three years by an applicant or participant or household member that involved 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 that resulted in the conviction of the applicant, participant or household member.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents and/or the likelihood of favorable conduct in the future that could be supported by evidence of rehabilitation.

<u>Denial of Assistance to Applicants</u>

The PHA shall deny program assistance for an applicant due to a variety of reasons.

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Applicants and their household members with a criminal history may not participate in the Hosing Choice Voucher Program for the following time frames becuase of information obtained through criminal history reports:

1. Denied admission for a minimum of three (3) years and the completion of a court ordered sentence/fine, including probation, if applicable or court ordered or voluntary rehabilitation program as evidenced by proper certification:

    a. Persons evicted or terminated from any federally-funded housing because of a drug related criminal activity for personal use or possession from the date of such eviction/termination;

    b. Persons applying for assisted housing who have been involved in drug-related criminal activity for the personal use or possession for personal use (exclusive of the illegal manufacture, sale, distribution, or possession with intent to manufacture, sell and distribute) from the date of such activity;

    c. Persons with recent history of criminal activity involving Class C Misdemeanors for drug paraphernalia.

2. Denied admission for a minimum of five (5) years and the completion of a court ordered sentence/fine, including probation, if applicable or court ordered or voluntary rehabilitation program as evidenced by proper certification:

    a. Intentionally misrepresenting income

    b. Intentionally misrepresenting family composition

    c. Any other intentional misrepresentation of information that affects eligibility.

    d. Violent criminal activity including but not limited to Larceny

    e. Violent criminal activity including but not limited to Assault

    f. Violent criminal activity including but not limited to Risk of Injury to a Minor

    g. Any such criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity if being engaging in by any family member.

    h. Persons evicted or terminated from any federally-funded housing because of drug –related criminal activity for the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell, or distribute.

    i. Persons who have been convicted or have a history of drug-related criminal activity for the illegal manufacture, sale, distribution, or possession with the

DRAFT

intent to manufacture, sell or distribute.

3. Denied admission for a minimum of ten (10) years and the completion of sentence for any conviction, parole, probation and six (6) months of unsupervised living without repeat incident.

   a. Convicted of acts that would constitute fraud in connection with any State or Federal Assistance programs.

   b. Criminal activity involving crimes of violence against people (e.g. murder, battery, assault).

4. Permanent denial of admission:

   a. Previous conviction of any family member for manufacture or production of methamphetamine (speed) on the premises of an assisted housing project in violation of any Federal or State law.

   b. No family member may be subject to state sex offender registration requirement.

Exceptions to the Drug-Related and Violent Criminal Activity admission denials

Ineligibility for Admission if Evicted for Drug-Related Activity

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a three year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, the PHA determines that:

1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA, or

2. The circumstances leading to eviction no longer exist because the criminal household member has died or is imprisoned.

Denial of Assistance for Sex Offenders

The PHA will deny admission if any member of the household is on a governmental sex offender registry. In screening applicants, the PHA will perform criminal history background checks to determine whether any household member is on a governmental sex offender registry.

DRAFT

Disputes or conflicts concerning the applicability of a member of the household being on a governmental sex offender registry must be resolved by the family.

Termination of Assistance for Participants

Termination of Assistance for Drug-Related Criminal Activity or Violent Criminal Activity:

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. HUD regulations at 24 CFR 982.553(b) requires the PHA to establish standards for termination of assistance when this family obligation is violated. The PHA has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity:

1. Assistance will be terminated for participants who have been engaged in/ or convicted of drug-related or violent criminal activity during participation in the program or who have been evicted from a unit assisted under any federally assisted housing program within the last three years before the date of the notice to terminate assistance.

2. If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, the PHA will terminate assistance.

3. In appropriate cases, the PHA may permit the family to continue receiving assistance if family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of juvenile court officials.

4. The PHA will waive the requirement regarding drug-related criminal activity if the person demonstrates successful completion of a credible rehabilitation program approved by the PHA or the circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

Participation in illegal drug or violent criminal activity.

Termination for other than criminal conviction.

If the PHA moves to terminate for a violation of this nature the following evidence and testimony must presented by the PHA at the hearing.

1. A detailed police report outlining the nature of the arrest

2. The direct testimony of the arresting officer or any officer who was a party to the arrest and/or

DRAFT

3. Direct testimony by another party who was witness to the violation, (*i.e., owner, neighbor, etc.*) who can corroborate the specific violation in relation to the arrest.

4. Any other evidence to substantiate the violation.

Termination for conviction.

If the PHA moves to terminate for a violation of this nature one or more of the following should be presented at the hearing.

1. A court document outlining the specific offense and resulting conviction.

2. Department of Corrections incarceration record indicating the nature of the offense that resulted in incarceration and/ or probation.

3. Any other documentation that can attest to the conviction.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the PHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

In appropriate cases, the PHA may permit the family to continue receiving assistance if household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of juvenile court officials.

Required Evidence (Standard of Proof)

Preponderance of evidence is defined as evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is proven more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of arrest warrants and/or drug raids.

DRAFT

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated and destroyed once the purpose that it was requested is accomplished.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (*as provided by 24 CFR 982.551*). "Information" includes any requested certification, release or other documentation.

1. The family must supply any information requested by the PHA or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition in accordance with HUD requirements.

2. The family must disclose and verify Social Security numbers (*as provided by 24 CFR 5.216*) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

3. All information supplied by the family must be true and complete.

4. The family is responsible for an HQS breach caused by the family as described in 982.404(b).

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

6. The family may not commit any serious or repeated violations of the lease.

7. The family must notify the owner and, at the same time, notify the PHA before the family moves out of the unit or terminates the lease upon notice to the owner.

8. The family must give the PHA a copy of any owner eviction notice within thirty calendar days of its receipt.

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

10. The composition of the assisted family residing in the unit must be approved by the PHA. The family must inform the PHA of the birth, adoption or court-awarded custody of a child within thirty calendar days. The family must request PHA approval to add any other family member as an occupant of the unit.

DRAFT

11. The family must notify the PHA if any family member no longer resides in the unit within thirty calendar days.

12. If the PHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or PHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

13. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

14. The family must not sublease or let the unit.

15. The family must not assign the lease or transfer the unit.

16. The family must supply any information or certification requested by the PHA to verify that the family is living in the unit or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must notify the PHA of absence from the unit within thirty calendar days.

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

18. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the Section 8 HCV program.

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

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

21. An assisted family or members of the family may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any federal, state or local housing assistance program determined by HUD or in accordance with HUD requirements to be duplicative.

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The PHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the

DRAFT

violation occurred. The PHA may also review the family's recent history and record of compliance and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure to act will not reside in the unit. The PHA may permit the other members of a family to continue in the program.

Enforcing Family Obligations

Explanations and Terms

Denial or termination of assistance is always optional except where this plan or the regulations state otherwise.

HQS Breach: The PHA will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions by the PHA to cure HQS breaches**.**

Lease Violations: The following criteria will be used to decide if a serious or repeated violation of the lease has occurred that will result in termination of assistance:

1. If the owner terminates tenancy through court action for serious or repeated violation of the lease.

2. If there are police reports, neighborhood complaints or other third party information that has been verified by the PHA.

Notification of Eviction: If the family requests assistance to move and they did not notify the PHA of an eviction within ten business days of receiving the notice of lease termination, the move will be denied.

Proposed Additions to the Family: The PHA will deny a family's request to add additional family members who are:

1. Persons who have been evicted from public housing within the past three years.

2. Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

3. Persons who have committed drug-related criminal activity or violent criminal activity within the past three years.

4. Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

DRAFT

5. Persons who currently owe rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

6. Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Members Move Out: Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information.

1. The date the family member moved out.

2. The new address, if known, of the family member.

3. A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit:

1. If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom (*utilized for a business*) that is not available for sleeping, it will be considered a violation.

2. If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a violation.

3. If the PHA determines the business is not legal, it will be considered a violation.

Interest in Unit: The owner may not reside in the assisted unit regardless of whether she or he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the voucher program.

Fraud: In each case, the PHA will consider that family members were involved, the circumstances and any hardship that might be caused to innocent members.

In the event of false citizenship claims (*refer to section D, below*)

D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families that all members are neither U. S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing (*see Chapter 2 of this Administrative Plan, "Eligibility for Admissions," at section E, "Citizenship/Eligible Immigration Status"*).

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

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False or Incomplete Information

If the individual is unable to verify his or her citizenship, the PHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend his or her status.

The PHA will then verify eligible status, deny, terminate or pro-rate as applicable**.**

The PHA will deny or terminate assistance based on the submission of false information or on misrepresentation.

Procedure for Denial or Termination

If the family (*or any member*) claimed eligible immigrant status and the CIS primary and secondary verifications failed to document the family status, the family may make an appeal to the CIS and request a hearing with the PHA either after the CIS appeal or in lieu of the CIS appeal.

After the PHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for pro-rated assistance (*if applicable*).

E. ZERO ASSISTANCE TENANCIES

HAP Contracts On or After 10/2/95 [24 CFR 982.455 (a)]

The family may remain in the unit at zero assistance for up to one-hundred eighty calendar days after the last HAP payment. If the family is still in the unit after one-hundred eighty calendar days, the assistance will be terminated. If, within the one-hundred eighty calendar day period, an owner rent increase or a decrease in the total tenant payment causes the family to be eligible for a housing assistance payment, the PHA will resume assistance payments for the family.

In order for a family to move to another unit during the one-hundred eighty calendar days, the rent for the unit would have to be high enough to necessitate a housing assistance payment.

F. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a family obligation to supply information, documentation and certification as needed for the PHA to fulfill its responsibilities. The PHA schedules appointments and sets deadlines in order to obtain the required information. The obligations also require that the family allow the PHA to inspect the unit and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment or fails to supply information required by a deadline without notifying the PHA may be sent a notice of denial or termination

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of assistance for failure to allow the PHA to inspect the unit or for failure to provide required information.

The family will be given information about the requirement to keep appointments and the number of times appointments will be re-scheduled, as specified in this plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

1. Eligibility for Admissions;
2. Verification Procedures;
3. Voucher Issuance and Briefings;
4. Housing Quality Standards and Inspections;
5. Re-examinations; and
6. Appeals.

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

1. Medical emergency;
2. Incarceration;
3. Family emergency; and
4. Work resulting from training obligations.

Procedure when Appointments Are Missed or Information Is Not Provided

For most purposes in this plan, the family will be given two opportunities to keep an appointment or to provide information before being issued a notice of termination or denial for breach of a family obligation.

An appointment shall be considered “missed” only when the family has not had direct contact, before the appointment, with the housing authority. If previous contact has been made, then the missed appointment shall be considered a rescheduled appointment. For purposes in this plan, the family will be given three reschedule appointment opportunities before the next reschedule is considered a missed appointment. Any subsequent rescheduling, beyond three occasions, will also be considered a missed appointments. For purposes of this plan, a tenant may only reschedule an appointment a maximum of four times before a notice of termination or denial for breach of a family obligation shall be issued.

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After issuance of the termination notice, if the family offers to correct the breach within the time allowed for requesting a hearing, the notice will be rescinded if the family subsequently attends an appointment or provides information and the family does not have a history of non-compliance.

Notification of Eviction: If the family requests assistance to move and they did not notify the PHA of an eviction within ten business days of receiving the notice of lease termination, the move will be denied.

Proposed Additions to the Family: The PHA will deny a family's request to add additional family members who are:

1. Persons who have been evicted from public housing within the past three years.

2. Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

3. Persons who have committed drug-related criminal activity or violent criminal activity within the years set forth under "Denials of Assistance to Applicants".

4. Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

5. Persons who currently owe rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

6. Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Members Move Out: Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information.

1. The date the family member moved out.

2. The new address, if known, of the family member.

3. A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit:

1. If the area in which the business activity is done causes the family to be unable to use the critical living areas, such as a bedroom thus making it unavailable for sleeping, it will be considered a violation.

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2. If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a violation.

3. If the PHA determines the business is not legal, it will be considered a violation.

Interest in Unit: The owner may not reside in the assisted unit regardless of whether she or he is a member of the assisted family, unless the family owns the mobile home and rents the pad under the voucher program.

Fraud: In each case, the PHA will consider that family members were involved, the circumstances and any hardship that might be caused to innocent members.

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Chapter 16 OWNER DISAPPROVAL AND RESTRICTION [24 CFR 982.54, 982.453]

INTRODUCTION

It is the policy of the PHA to recruit owners to participate in the voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow owner participation in the program and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, the term "owner" includes a principal or other interested party.

The PHA will disapprove the owner for the following reasons:

1. HUD or another agency directly related has informed the PHA that the owner has been disbarred, suspended or subject to a limited denial of participation under 24 CFR part 24.

2. HUD has informed the PHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and that such action is pending.

3. HUD has informed the PHA that a court or an administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

4. Unless their lease was effective before June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this requirement as a reasonable accommodation for a family member who is a person with a disability.

5. In cases where the owner and tenant bear the same last name, the PHA at its discretion, may require the family and/or the owner to certify whether they are related to each other in any way.

6. The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (*42 U.S.C. 1437f*).

7. The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligations to maintain the unit to HQS, including any standards the PHA has adopted in this policy.

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8. The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

9. The owner has engaged in drug-related criminal activity or any violent criminal activity.

10. The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

11. The owner has a history or practice of renting units that fail to meet state or local housing codes.

12. The owner has failed to comply with regulations, the mortgage, note or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner commits or has committed fraud, abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner, the PHA will review all relevant factors pertaining to the case and will consider such factors as the owner's record of compliance and the number of violations.

See the Program Integrity Addendum for guidance as to how owner fraud will be handled.

C. CHANGE IN OWNERSHIP

A change in ownership does not require the execution of a new contract however, a new HAP contract and lease must be executed upon the tenant’s reexamination date.

The PHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Federal Employee Identification Number or Social Security Number of the new owner.

If the new owner does not want an assignment of the contract, the PHA will terminate the HAP contract with the old owner, since she or he is no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

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Chapter 17 OWNER OR FAMILY DEBTS TO THE PHA [24 CFR 982.552]

INTRODUCTION

This chapter describes the PHA's policies for the recovery of monies that have been overpaid to owners on behalf of families. It describes the methods that will be utilized for the collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of owners and families and to communicate the program rules in order to avoid an owner or a family incurring debt due to PHA overpayment. Before a debt is assessed against a family or owner, the family file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect the debt. The PHA will use a variety of collection tools to recover debts including, but not limited to:

1. Requests for lump sum repayments;
2. Repayment agreements;
3. Suspensions of housing assistance payments;
4. Reductions of housing assistance payments;
5. DSS Fraud and Recovery Unit
6. Credit Agency Reporting
7. Seizure of personal assets accounts
8. Lien of Personal Property
9. Mechanics Liens

A. REPAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)]

A repayment agreement as used in this plan is a document signed by both parties outlining an agreement entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement and the remedies available to the PHA upon default of the agreement.

The terms of this repayment agreement will not exceed one hundred twenty months.

Only two repayment agreements within a rolling sixty months will be permitted.

DRAFT

If a third incident occurs that requires a third repayment, the family must repay the entire amount due or a notice of termination or denial for breach of a family obligation shall be issued.

B. DEBTS OWED DUE TO FAMILY ERROR

Where it has been determined by the PHA that error/late reporting was not a result of false statement, omission or concealment of a substantive fact, families who owe money to the PHA will be required to repay in accordance with the established repayment procedures (*see Section E*) for a person who owes a debt to the PHA.

C. DEBTS DUE TO PROGRAM FRAUD AND ABUSE [24 CFR 982.163]

Program fraud and abuse is defined as a single act or a pattern of actions that constitutes false statement, omission or concealment of a substantive fact, made with intent to deceive or mislead and that results in overpayment of Section 8 Program funds.

The PHA will enter into a repayment agreement with the family (*see Section E*) if the HAP overpayment is under ten-thousand dollars. Program assistance will be terminated for families when the HAP overpayment exceeds ten-thousand dollars**.** The PHA will use the following collection tools attempt to recover debts including but not limited to:

1. Requests for lump sum repayments

2. Repayment agreements

3. HAP overpayments in excess of ten-thousand dollars will be referred to the Department of Social Services Fraud Recovery Unit for collection. The department will use a variety of collection methods to collect the debt.

D. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

If the family owes the PHA money for rent arrearages incurred during the minimum rent period, the PHA will calculate the total amount owed to arrive at a reasonable payback amount that the family will be required to pay to the PHA monthly in addition to the family's regular monthly rent repayment to the owner. The family will be required to pay the increased amount until the arrearage is paid in full to the PHA.

The terms of this repayment agreement will not exceed one-hundred twenty months.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the PHA will re-evaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount and, if not, restructure the existing repayment agreement.

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E. GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 982.552 (c)(v-vii)]

The PHA shall use its judgment and shall negotiate individual agreements with families. The negotiated agreement shall include a mutually acceptable initial payment, all subsequent payments and a term of repayment that may not exceed one hundred twenty months (ten years).

Repayment agreements will only be executed between the PHA and the head of household or another household member who is at least eighteen years of age.

Repayments may only be made by money order, cashier's check and personal check. The PHA has the right to refuse personal checks for cause.

A repayment will be considered to be in arrears if the payment is not received within ten business days after the due date.

If the family has an existing indebtedness to the PHA and incurs an additional debt to the PHA, the additional indebtedness will be consolidated with the existing indebtedness and a new repayment agreement shall be executed.

If the family requests a move to another unit and has a repayment agreement in place and the repayment agreement is not in arrears, the family will be permitted to move.

If the family requests a move to another unit and is in arrears on a repayment agreement, they will be permitted to move, if they pay the past due amount.

The amount of the monthly repayments may be decreased in cases of family hardship if requested with reasonable notice from the family, verification of the hardship and the approval of the PHA**.**

Any monthly repayment amounts that are deferred, for a financial hardship, shall extend the repayment agreement for an equivalent number of months. Only in this instance may the repayment agreement be extended beyond the 120 month maximum period.

F. OWNER DEBTS TO THE PHA [24 CFR 982.453(b)]

If the PHA determines that the owner has retained housing assistance or repayments to that the owner is not entitled, the PHA may reclaim the amounts from future housing assistance repayments owed to the owner for any unit or units under contract.

If future housing assistance or repayments are insufficient to reclaim the amount owed, the PHA will:

1. Enter into a repayment agreement with the owner for the amount owed or

2. Restrict the owner from future participation.

DRAFT

G. **WRITING OFF DEBTS**

Debts will be written off in the following manner:

1. For debts under two-thousand dollars,
    a. The debtor's whereabouts are unknown, and
    b. the debt is more than three years old, or
2. For debts of two-thousand dollars but less than five-thousand dollars,
    a. The debtor's whereabouts are unknown, and
    b. The debt is more than five years old, or
3. For debts of five-thousand dollars but less than ten-thousand dollars,
    a. The debtor's whereabouts are unknown, and
    b. The debt is more than seven years old

Debts, regardless of amount, shall be written off if the debtor is deceased.

All outstanding debts owed by an applicant, or any member of the applicant's household, shall be fully discharged before they may be selected for a voucher.

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Chapter 18 COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision or inaction of the PHA (*note that the terms "hearing" and "informal hearing" shall be used interchangeably throughout this chapter*). This chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements for preference denial meetings, informal reviews and hearings are explained. It is the policy of the PHA to ensure that all families have the benefit of all protections due them under the law.

A. COMPLAINTS TO THE PHA

The PHA will respond to complaints from families, owners, employees and members of the public in thirty calendar days. All complaints will be documented. The PHA may require that complaints other than HQS violations/those concerning housing quality standards or HQS be put in writing. HQS complaints may be reported by telephone.

Categories of Complaints

1. Complaints from families:
    a. If a family disagrees with an action or inaction of the PHA or owner.
    b. Complaints from families will be referred to the supervisor.
2. Complaints from owners:
    a. If an owner disagrees with an action or inaction of the PHA or a family.
    b. Complaints from owners will be referred to the supervisor.
3. Complaints from the public:
    a. Complaints or referrals from persons in the community with regard to the PHA, a family or an owner.
    b. Complaints from the public will be referred to the supervisor.

The PHA hearing and complaint procedures will be provided to families in the briefing packet.

B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]

Informal reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

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When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

1. The reason(s) that they are ineligible,

2. The procedure for requesting an informal review if the applicant does not agree with the decision and

3. The time limit for requesting an informal review.

When denying admission due to engaging in criminal activity by a household member, the PHA will include in the notice a statement that the applicant may request a copy of the criminal record that the decision to deny admission was based.

The PHA must provide applicants with the opportunity for an informal review of decisions denying:

1. Listing on the PHA's waiting list,

2. Issuance of a voucher,

3. Participation in the program or

4. Assistance under portability procedures.

Informal reviews are not required for established policies, procedures and PHA determinations such as:

1. Discretionary administrative determinations by the PHA,

2. General policy issues or class grievances,

3. A determination of the family unit size under the PHA subsidy standards,

4. Refusal to extend or suspend a voucher,

5. Disapproval of a lease,

6. Determination that a unit is not in compliance with HQS or

7. Determination that a unit is not in accordance with HQS due to family size or composition.

Procedure for Informal Review

A request for an informal review must be received in writing by the close of business, no later than twenty business days from the date of the PHA's notification of denial of assistance. The

DRAFT

informal review will be scheduled within thirty business days from the date the request is received and notice of such will be sent to the tenant a minimum of twenty-one business days in advance of the hearing.

The informal review may not be conducted by the person who made or approved the decision under review or by a subordinate of such person.

The informal review may be conducted by:

1. A staff person who is at the hearing officer or supervisor level or above or

2. A qualified individual from outside the PHA.

The applicant will be given the option of presenting oral and/or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of review findings will be provided in writing to the applicant within twenty-one business days of/after the review. The notice shall include the decision of the review officer and an explanation of the reasons for the decision.

All requests for a review, supporting documentation and a copy of the notice of review findings/final decision will be retained in the family's file.

C. **INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(13)]**

When the PHA makes a decision regarding the eligibility and the amount of assistance, applicants and participants must be notified in writing. The PHA will give the family prompt notice of such determinations that will include:

1. The proposed action or decision of the PHA;

2. The date that the proposed action or decision will take place;

3. The family's right to an explanation of the basis for the PHA's decision;

4. The procedure for requesting a hearing if the family disputes the action or decision;

5. The time limit for requesting the hearing; and,

6. To whom the hearing request should be addressed.

When terminating assistance for engaging in criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant/participant/head of household with a copy of the criminal record upon which the decision to terminate was based.

DRAFT

When denying admission for engaging in criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The PHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following PHA determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment.

2. Appropriate utility allowance used from schedule

3. Family unit size determination under PHA subsidy standards.

4. Determination to terminate assistance for any reason.

5. Determination to terminate a family's FSS contract, withhold supportive services or propose forfeiture of the family's escrow account.

The PHA must always provide the opportunity for an informal hearing before termination of assistance. As with informal reviews, the request for an informal hearing must be received in writing by the close of the business day no later than twenty business days from the date of the PHA's notification of action. The informal review/hearing will be scheduled within thirty business days from the date the request is received.

Informal hearings are not required for established policies, procedures and PHA determinations such as:

1. Discretionary administrative determinations by the PHA

2. General policy issues or class grievances

3. Establishment of the PHA schedule of utility allowances for families in the program

4. A PHA determination not to approve an extension or suspension of a voucher term

5. A PHA determination not to approve a unit or lease

6. A PHA Determination that an assisted unit is not in compliance with HQS (*the PHA must provide an informal hearing for family breach of HQS because that is a family obligation determination*)

7. A PHA Determination that the unit is not in accordance with HQS because of the family size

8. A PHA determination either to exercise or not to exercise any right or remedy against the owner under a HAP contract

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Notification of Hearing

It is the PHA's objective to resolve disputes at the lowest level possible and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

The notification of hearing will contain:

1. The date and time of the hearing;

2. The location where the hearing will be held;

3. The detailed description of the violation(s) that, in detail, should include the exact nature of the violation (*e.g., unreported income of $7,500.00 from Wal-Mart from 01/08 thru 06/08*). Additionally, this notification will include reference to said violation in the administrative plan.

4. The family's right to bring evidence, witnesses and legal or other representation to the hearing at the family's expense;

5. The right to review any documents or evidence in the possession of the PHA that the PHA based the proposed action and, at the family's expense, to obtain a copy of such documents before the hearing. Requests for such documents or evidence must be received no later than two business days before the hearing date; and

6. A notice to the family that the PHA will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than two business days before the hearing.

7. The PHA will send the notice of hearing a minimum of twenty-one calendar days in advance of the hearing.

The PHA's Hearing Procedures

After a hearing date is agreed upon, the family may request to re-schedule only upon showing "good cause," that is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not re-scheduled the hearing in advance, the family must contact the PHA within two business days. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

1. Present written or oral objections to the PHA's determination;

DRAFT

2. Examine the documents in the file that are the basis for the PHA's action and all documents submitted to the hearing officer;

3. Copy any relevant documents at their expense;

4. Present any information or witnesses pertinent to the issues of the hearing***;***

5. Request that PHA staff be available or present at the hearing to answer questions pertinent to the case; and

6. Be represented by legal counsel, an advocate or another designated representative at the family's own expense.

If the family requests copies of documents relevant to the hearing, the PHA will make the copies for the family and assess a charge of twenty-five cents per copy for all copies in excess of twenty. In no case will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this chapter, the PHA has a right to:

1. Present evidence and any information pertinent to the issue of the hearing;

2. Be notified if the family intends to be represented by legal counsel, an advocate or another designated representative;

3. Examine and copy any documents to be used by the family before the hearing;

4. Have its attorney present; and

5. Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the hearing officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. The PHA appoints hearing officers who:

1. Are managers from other departments within the agency;

2. Are managers from other PHAs; or

3. Are professional mediators or arbitrators.

Required Evidence (Standard of Proof)

Preponderance of evidence is defined as evidence that is of greater weight or more convincing than the evidence that is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is proven more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

DRAFT

Preparation by the PHA staff for the administrative fair hearing will include:

1. A narrative statement of facts for the hearing officer. The summary of which will include a synopsis of the events leading up to the adverse action as well as a listing of all exhibits that will be used to substantiate the allegations.

2. Evidence in support of the HA decision to terminate

3. Any witness(s) to corroborate the HA's position

D. **SUBMISSION OF ALL MATERIALS TO THE FAIR HEARING OFFICER AS WELL AS THE APPELLANT FOR REVIEW BEFORE THE HEARING WITHIN FIVE BUSINESS DAYS OF THE INFORMAL CONFERENCE**

The hearing shall concern only the issues that the family has been given the opportunity for a hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented that have not been provided to the other party before the hearing if these documents have been requested by the other party. "Documents" include records and regulations.

The hearing officer may ask the family for additional information and may adjourn the hearing, in order to reconvene on a future date, before reaching a decision.

If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA shall take effect and another hearing will not be granted.

The hearing officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan, based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of hearing findings shall be provided in writing to the PHA and the family within twenty-one business days and shall include:

1. A clear summary of the decision and the reasons for the decision;

2. If the decision involves money owed, the amount owed; and

3. The date that the decision goes into effect.

The PHA is not bound by hearing decisions of the following sort:

DRAFT

1. those concerning matters that the PHA is not required to provide an opportunity for a hearing;

2. those that conflict with or contradict HUD regulations or requirements;

3. those that conflict with or contradict federal, state or local laws; or

4. those that exceed the authority of the person conducting the hearing.

The PHA shall send a letter to the participant within twenty-one business days if it determines that the PHA is not bound by the hearing officer's determination. The letter shall include the PHA's reasons for the decision.

All requests for a hearing, supporting documentation and a copy of the notice of hearing findings will be retained in the family's file.

An aggrieved party may request reconsideration of the PHA's decision in writing no later than twenty-one business days from the date of the hearing decision (*notice of such will be included in the termination notification*).

Reconsideration requests must be sent to:

Manager
Family and Housing Services Group – 10th Floor
Division of Integrated Services
Department of Social Services
25 Sigourney Street
Hartford, CT 06106-5033

The Department of Social Services will make its decision on requests for reconsideration based on a review of the hearing materials and the case file. All decisions will be made within twenty-one business days of the date the request is received by the Manager.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]

Assistance to a family may not be terminated or denied while the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.

CIS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the CIS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten business days of their right to appeal to the CIS within thirty business days of notification or to request an informal hearing with the PHA either in lieu of or subsequent to the CIS appeal.

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If the family appeals to the CIS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within twenty-one business days of receipt of the notice offering the hearing or, if an appeal was made to the CIS, within twenty-one business days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in section D of this Chapter for both applicants and participants. If the hearing officer decides the individual is not eligible and there are no other eligible family members, the PHA will either:

1. Deny the applicant family or

2. Defer termination, if the family is a participant and qualifies for deferral or

3. Terminate participation, if the family does not qualify for deferral.

If there are eligible members in the family, the PHA will offer to pro-rate assistance or give the family the option to remove the ineligible member(s).

Regarding all other complaints related to eligible citizen/immigrant status:

1. If any family member fails to provide required documentation or certification regulation, that member is treated as ineligible. If all family members fail to provide documentation or certification, the family will be denied or terminated for failure to provide documentation.

2. Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing before the termination.

3. Participants whose assistance is pro-rated (*either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above*) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and total tenant payment.

4. Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

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5091 F. **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24**
5092 **CFR 982.204, 982.552(c)]**

5093 When applicants are denied placement on the waiting list or the PHA is terminating assistance,
5094 the presence of a disability may be considered as a mitigating circumstance during the informal
5095 review process. Examples of mitigating circumstances include, but are not limited to,:

5096 1. A person with a cognitive disorder may not have understood the requirement to report
5097 increases in income;

5098 2. A person may not understand the need to make regular repayments on a promissory
5099 note;

5100 3. Minor criminal records for public drunkenness may actually be due to medication
5101 reactions; or

5102 4. Prior incarcerations for disorderly conduct due to an emotional disorder.

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Chapter 19 SPECIAL HOUSING TYPES [24 CFR 982.601]

INTRODUCTION

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will also provide assistance for a family that owns a manufactured home and leases only a space. In addition, the PHA will allow HCVs to be used in other special types of housing as a reasonable accommodation for a person with a disability.

A. MANUFACTURED HOMES

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in Chapter 10 of this Administrative Plan and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as susceptibility to sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning or sliding due to the action of wind.

Manufactured Home Space Rental [24 CFR 982.622]

The rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the terms of the lease for the space.

The rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the PHA.

The PHA will not approve a lease for a manufactured home space until the PHA has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the PHA will re-determine that the rent is reasonable. The PHA will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The PHA will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the terms of the lease.

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By accepting each monthly housing assistance payment from the PHA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for the unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the PHA, the owner must provide the PHA with information on rents for other manufactured home space that the owner has available.

Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623]

HAP for the Voucher

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally forty percent of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

1. The payment standard minus the total tenant payment or

2. The rent paid for rental of the real property that the manufactured home owned by the family is located (*i.e., the space rent*) minus the total tenant payment.

The space rent is the sum of the following as determined by the PHA:

1. Rent to owner for the manufactured home space and

2. Owner maintenance and management charges for the space and

3. The utility allowance for tenant-paid utilities.

Amortization Cost

The amortization cost may include debt service to amortize costs (*other than furniture costs*) included in the purchase price of the manufactured home. The debt service includes the payment for principal and interest on the loan. The debt service amount will be reduced by fifteen percent to exclude debt service to amortize the cost of furniture, unless the PHA determines that furniture was not included in the purchase price.

Any debt service due to refinancing the manufactured home after purchase of the home is not included in the amortization costs.

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The PHA will not approve as part of the monthly amortization payment any set-up charges to be included in the debt service incurred by a family that relocates its home.

The PHA will not include as part of the monthly amortization payment any set-up charges incurred before the family became an assisted family, if monthly payments are still being made to amortize such charges.

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

The PHA will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

B. SPECIAL HOUSING TYPES AS REASONABLE ACCOMMODATION

In addition to manufactured housing, the PHA will allow HCVs to be used in the following types of housing as a reasonable accommodation for a person with a disability:

1. Single Room Occupancy (SRO) units

   Defined at CFR 982.605 as a single room with access to a bathroom that contains at least one-hundred ten square feet of floor space.

2. Group homes

   A group home must be licensed, certified or otherwise approved in writing by the state as a group home for elderly persons or persons with disabilities.

3. Congregate housing

   Defined at CFR 982.609 as a single room or multiple rooms (*e.g. sitting room*). The unit must contain a refrigerator and there must be a central kitchen and dining facilities on the premises.

4. Shared housing

   Defined at CFR 982.618, each unit must contain private space for each assisted family, plus appropriate common space for shared use by the residents of the unit. The private space for each family must contain at least one bedroom for each two persons in the

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family. The number of bedrooms in the private space of as assisted family may not be less than the family size. A zero or one bedroom unit may not be used for shared housing.

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Chapter 20 GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF .....Annual Adjustment Factor. A factor published by HUD in the Federal Register that is used to compute annual rent adjustment.

ACC .....Annual Contributions Contract

ADA .....Americans with Disabilities Act of 1990 (*42 U.S.C. 12101 et seq*.).

BMIR.....Below Market Interest Rate

BR .....Bedroom

CDBG .....Community Development Block Grant

CFR .....Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of federal rules that are first published in the Federal Register and that defines and implements a statute.

CPI .....Consumer Price Index. The CPI is published monthly by the U. S. Department of Labor as an inflation indicator.

CR .....Contract Rent

DCF .....The Connecticut Department of Children and Families

DMHAS .....The Connecticut Department of Mental Health and Addiction Services

DSS .....The Connecticut Department of Social Services

FDIC .....Federal Deposit Insurance Corporation

FHA .....Federal Housing Administration

FICA .....Federal Insurance Contributions Act - Social Security taxes

FmHA.....Farmers Home Administration

FMR .....Fair Market Rent

FY.....Fiscal Year

FYE.....Fiscal Year End

GAO .....Government Accounting Office

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GR.....Gross Rent

HAP.....Housing Assistance Payment

HCDA .....Housing and Community Development Act

HQS .....Housing Quality Standards

HUD .....The Department of Housing and Urban Development or its designee.

HURRA.....Housing and Urban/Rural Recovery Act of 1983

IG .....Inspector General

IGR.....Independent Group Residence

IPA .....Independent Public Accountant

IRA .....Individual Retirement Account

MSA .....A Metropolitan Statistical Area established by the U. S. Census Bureau

PHA.....Public Housing Agency

PMSA .....A Primary Metropolitan Statistical Area established by the U. S. Census Bureau

PS.....Payment Standard

QC.....Quality Control

RIGI .....Regional Inspector General for Investigation

RTA .....Request for Tenancy Approval

RFP .....Request for Proposals

RRP .....Rental Rehabilitation Program

SAVE .....Systematic Alien Verification for Entitlements Program

SMSA .....Standard Metropolitan Statistical Area. Note: this term has been replaced by MSA, Metropolitan Statistical Area.

SRO .....Single Room Occupancy

TR .....Tenant Rent

TTP.....Total Tenant Payment

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UA.....Utility Allowance

URP.....Utility Reimbursement Payment

B. **GLOSSARY OF TERMS USED IN SUBSIDIZED HOUSING**

1937 ACT .....The United States Housing Act of 1937 (*42 U.S.C. 1437 et seq*.).

ADMINISTERING AGENCY .....In the event the PHA subcontracts for the management and administration of the program, the subcontractor and any entities with which the subcontractor contracts are the Administering Agency.

ADMINISTRATIVE PLAN .....The HUD-required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION .....In portability, the point at that a receiving PHA stops billing the initial PHA for assistance on behalf of a family exercising portability. The receiving PHA uses funds available under its consolidated ACC.

ACC RESERVE ACCOUNT (formerly PROJECT RESERVE) .....Account established by HUD from amounts that the maximum payment to the PHA under the consolidated ACC (*during a PHA fiscal year*) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADJUSTED INCOME .....Annual income after all allowances approved by HUD has been deducted.

ADMINISTRATIVE FEE....The fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (*formerly OPERATING RESERVE*) .....Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

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ADMISSION .....The effective date of the first HAP contract for a family (*i.e., the first day of the initial lease term*) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNUAL BUDGET AUTHORITY .....The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (*or ACC*) .....A written contract between HUD and a PHA. Under the contract, HUD agrees to provide funding for the operation of the program and the PHA agrees to comply with HUD requirements for the program.

ANNUAL INCOME.....The anticipated total annual income of an eligible family from all sources for the twelve-month period following the date of determination of income, computed in accordance with the regulations.

APPLICANT (*or APPLICANT FAMILY*) .....A family that has applied for admission to a program, but is not yet a participant in the program.

ASSETS (*see NET FAMILY ASSETS*)

ASSISTED TENANT .....A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or one-hundred twenty percent of the BMIR rent, respectively.

BUDGET AUTHORITY .....An amount authorized and appropriated by the U. S. Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

BUSINESS DAYS .....The days, Monday through Friday, except state and federal holidays and closings required by the Governor, when business is conducted.

CHILD CARE EXPENSES ..Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD .....An individual in the household who is equally responsible for the lease with the Head of Household. (*A family never has a co-head and a spouse and a co-head is never a dependent*).

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COMMON SPACE .....In shared housing, the space available for use by the assisted family and other occupants of the unit.

CONGREGATE HOUSING.....The housing for elderly persons or persons with disabilities that meets the HQS requirement for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT (*or CONSOLIDATED ACC*).....See 24 CFR 982.151.

CONTIGUOUS MSA.....In portability, an MSA that shares a common boundary with the MSA that the jurisdiction of the initial PHA is located.

CONTINUOUSLY ASSISTED .....An applicant is assisted continuously under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

CONTRACT (*see HOUSING ASSISTANCE PAYMENTS CONTRACT*)

CONTRACT RENT .....The total monthly rent to owner for a contract unit, including the tenant rent portion of rent to owner paid by the assisted family.

COOPERATIVE .....Housing, including mutual housing that owned by a nonprofit corporation or association and where a member of the corporation or association has the right to reside in a particular apartment and to participate in the management of the housing. A special housing type: See 24 CFR 982.619.

COVERED FAMILIES.....Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program that federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

DEPENDENT.....A member of the family household (*excluding foster children*), other than the family head or spouse, who is under eighteen years of age or is a disabled person or a handicapped person or is a full-time student eighteen years of age or older.

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DISABILITY
ASSISTANCE EXPENSE ...Anticipated cost for care attendant(s) and auxiliary apparatus for disabled family members that enable a family member (*including the disabled family member*) to work.

DISABLED FAMILY.....A family whose head, spouse or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

DISABLED PERSON (*see PERSON WITH DISABILITIES*)

DISPLACED PERSON
(*or DISPLACED FAMILY*) .....A person or family displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed because of a disaster declared or otherwise formally recognized under federal disaster relief laws.

DOMICILE .....The legal residence of the household head or spouse as determined in accordance with state and local law.

DRUG-RELATED
CRIMINAL ACTIVITY.....The illegal manufacture, sale, distribution or use of a controlled substance or the possession with intent to manufacture, sell, distribute or use a controlled substance, as defined in Section 102 of the Controlled Substance Act (*21 U.S.C. 802*).

DRUG TRAFFICKING .....The illegal manufacture, sale, distribution or use of a controlled substance or the possession with intent to manufacture, sell, distribute or use a controlled substance, as defined in section 102 of the Controlled Substances Act (*21 U.S.C. 802*).

ECONOMIC
SELF-SUFFICIENCY
PROGRAM .....Any program designed to encourage, assist, train or facilitate the economic independence of assisted families or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship or any other program necessary to ready a participant to work (*such as mental health treatment or treatment for drug abuse*). Includes any work activities as defined in the Social Security Act (*42 U.S.C. 607(d)*). Also see 24 CFR 5.603 (c).

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ELDERLY FAMILY.....A family whose head, spouse or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

ELDERLY HOUSEHOLD...A family whose head or spouse or sole member is at least 62 years of age; may include two or more elderly persons living together; or one or more such persons living with another person who is determined to be essential to his/her care and well-being.

ELDERLY PERSON.....A person who is at least 62 years old.

ELIGIBLE FAMILY (*see FAMILY*).....A family is defined by the PHA in the administrative plan that is approved by HUD.

EXCESS MEDICAL EXPENSES .....Any medical expenses incurred by elderly or disabled families only in excess of three percent of Annual Income that are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY...A family whose annual income does not exceed thirty percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than thirty percent of medical income for an area if HUD finds such variations are necessary due to unusually high or low family incomes.

FAIR HOUSING ACT .....Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (*42 U.S.C. 3601 et seq*.).

FAIR MARKET RENT (*or FMR*).....The rent including the cost of utilities (*except telephone*) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (*non-luxury*) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (*number of bedrooms*) and are published in the *Federal Register.*

FAMILY .....“Family” includes but is not limited to:

1. A family with or without children (*the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size*);

2. An elderly family;

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3. A near-elderly family;

4. A displaced family

5. The remaining member of a tenant family; and

6. A single person who is not an elderly or displaced person or a person with disabilities or the remaining member of a tenant family.

FAMILY OF VETERAN OR SERVICE PERSON .....A family is a "family of veteran or service person" when:

1. The veteran or service person

   a. is either the head of household or is related to the head of the household; or

   b. is deceased, was related to the head of the household and was a family member at the time of death.

2. The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was

   a. formerly the head of the household and is permanently absent because of hospitalization, separation or desertion or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or

   b. not the head of the household but is permanently hospitalized; provided that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY RENT TO OWNER .....In the voucher program, the portion of the rent to owner paid by the family.

FAMILY SELF-SUFFICIENCY PROGRAM (*or FSS PROGRAM*) .....The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

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FAMILY SHARE.....The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE.....The appropriate number of bedrooms for a family, as determined by the PHA, under the PHA's subsidy standards.

FMR/EXCEPTION RENT..The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (*for the dwelling unit or for the family unit size*). In the voucher program, the PHA adopts a payment standard schedule that is within ninety percent to one-hundred ten percent of the FMR for each bedroom size.

FOSTER CHILD CARE PAYMENT.....The payment to eligible households by state, local or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT.....A person who is attending school or vocational training on a full-time basis (*carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended*).

FUNDING INCREMENT ..Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GOOD CAUSE.....Is a term used to describe circumstances beyond ones control which reasonably prevent him or her from complying with a program requirement.

GROSS RENT.....The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

GROUP HOME .....A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (*including any live-in aide or aides*).

HAP CONTRACT (*see HOUSING ASSISTANCE PAYMENTS CONTRACT*)

HEAD OF HOUSEHOLD.....The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as the head.

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HOUSING AGENCY (*or HA; see PUBLIC HOUSING AGENCY*) ..... A state, county, municipality or other governmental entity or public body (*or agency or instrumentality thereof*) authorized to engage in or assist in the development or operation of low-income housing. (***Note: PHA and HA mean the same thing.***)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 ..... The act that the U. S. Housing Act of 1937 (*sometimes referred to as the Act*) was re-codified and that added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT (*or HAP*) ..... The monthly assistance payment by a PHA. The total assistance payment consists of:

1. A payment to the owner for rent to owner under the family's lease.

2. An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT (*or HAP CONTRACT*) ..... A written contract between a PHA and an owner in the form prescribed by HUD headquarters, that the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN ..... 1. A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

2. A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

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HOUSING QUALITY STANDARDS (*or HQS*) ....The minimum housing quality standards established by HUD for housing assisted under the tenant-based programs.

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

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

IMPUTED ASSET .....An asset disposed of for less than fair market value during two years preceding examination or re-examination.

IMPUTED INCOME .....The passbook interest rate established by HUD, multiplied by the total cash value of assets; this calculation is used when assets exceed five-thousand dollars.

IMPUTED WELFARE INCOME.....An amount of annual income that is not actually received by a family because of a specified welfare benefit reduction, but that is included in the family's annual income and therefore reflected in the family's rental contribution.

INCOME.....The income, from all sources, for each member of the household, as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY.....Annual Income.

INITIAL PHA .....In portability, the term refers to both:

1. The PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

2. The PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

INITIAL PAYMENT STANDARD .....The payment standard at the beginning of the HAP contract term.

INITIAL RENT TO OWNER .....The rent to owner at the beginning of the HAP contract term.

INTEREST REDUCTION SUBSIDIES.....The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221

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(d)(3) BMIR projects; this includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION.....The area that the PHA has authority under state and local law to administer the program.

OWNER.....This term means either the owner of the property or his or her representative or the managing agent or his or her representative, as shall be designated by the owner.

LEASE.....A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

LIVE-IN AIDE .....A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person and would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE .....A preference used by the PHA to select among applicant families.

LOW-INCOME FAMILY...A family whose annual income does not exceed eighty percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than eighty percent for areas with unusually high or low-income families.

MANUFACTURED HOME .....A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

MANUFACTURED HOME SPACE.....In manufactured home space rental, a space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

MARKET RENT .....The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For

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unsubsidized units in an FHA-insured multi-family project that a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES .....Those total medical expenses, including medical insurance premiums that are anticipated during the period that annual income is computed and that are not covered by insurance (*A deduction for elderly or disabled families only.*). These allowances are given when calculating adjusted income for medical expenses in excess of three percent of annual income.

MERGER DATE.....October 1, 1999.

MINOR.....A member of the family household (*excluding foster children*), other than the family head or spouse, who is under eighteen years of age.

MIXED FAMILY .....A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME.....One-twelfth (*one-twelfth or eight and one-half percent*) of the annual adjusted income (*i.e., one-twelfth of the income after allowances have been applied*).

MONTHLY INCOME .....One-twelfth (*one-twelfth or eight and one-half percent*) of the annual income.

MUTUAL HOUSING (*see COOPERATIVE*)

NATIONAL .....A person who owes permanent allegiance to the United States, for example, because of birth in a United States territory or possession.

NEAR-ELDERLY FAMILY .....A family whose head, spouse or sole member is a person who is at least fifty years of age but below the age of sixty-two; or two or more persons who are at least fifty years of age but below the age of sixty-two, living together; or one or more persons who are at least fifty years of age but below the age of sixty-two, living with one or more live-in aides.

NEGATIVE RENT .....Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

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NET FAMILY ASSETS .....Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NON-CITIZEN .....A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS (*see SUBSIDY STANDARDS*) .....Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OWNER.....Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT .....A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (*first day of initial lease term*).

PAYMENT STANDARD ...The maximum monthly assistance payment for a family assisted in the voucher program (*before deducting the total tenant payment by the family*).

PERSON WITH DISABILITIES .....A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an “individual with handicaps” as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (*for low-income housing eligibility purposes*).

PHA PLAN .....The annual plan and the five-year plan as adopted by the PHA and approved by HUD in accordance with Part 903 of Chapter 9.

PORTABILITY.....Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

DRAFT

PREMISES .....The building or complex that the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE.....In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

PROCESSING ENTITY .....The entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

PROGRAM .....The Section 8 tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS .....HUD payments to the PHA under the consolidated ACC and any other amounts received by the PHA in connection with the program.

PUBLIC ASSISTANCE .....Welfare or other cash assistance payments to families or individuals, based on need that are made under programs funded, separately or jointly, by Federal, state or local governments.

PUBLIC HOUSING AGENCY (*or PHA; see HOUSING AGENCY; Note: PHA and HA mean the same thing*)...PHA includes any state, county, municipality or other governmental entity or public body that is authorized to administer the program (*or an agency or instrumentality of such an entity*) or any of the following:

1. A consortia of housing agencies, each of that meets the qualifications in paragraph (1) of this definition that HUD determines has the capacity and capability to efficiently administer the program (*that case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members*):

2. Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (*HUD or a PHA*) on October 21, 1998; or

3. For any area outside the jurisdiction of a PHA that is administering a tenant-based program or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

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REASONABLE RENT .....A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING PHA .....In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

RE-EXAMINATION (*formerly RECERTIFICATION*).....The process of securing documentation of total family income used to determine the rent that the tenant will pay for the next twelve months if there are no additional changes to be reported. There are annual and interim re-examinations.

REMAINING MEMBER OF TENANT FAMILY.....Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER.....The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RESIDENCY PREFERENCE.....A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (*"residency preference area"*).

RESIDENCY PREFERENCE AREA .....The specified area where families must reside to qualify for a residency preference.

RESIDENT ASSISTANT ....A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY .....For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, the

DRAFT

responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

SECRETARY .....The Secretary of Housing and Urban Development.

SECTION 8 .....Section 8 of the United States Housing Act of 1937 (*42 U.S.C. 1437f*).

SECURITY DEPOSIT .....A dollar amount that can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON .....A person in the active military or naval service (including the active reserve) of the United States.

SHARED HOUSING.....A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type.

SINGLE PERSON.....A person living alone or intending to live alone.

SPECIAL ADMISSION.....The admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES .....See Subpart M of 24 CFR 982 that states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (*including mutual housing*) and manufactured homes (*including manufactured home space rental*).

SPECIFIED WELFARE BENEFIT REDUCTION.....Those reductions of welfare benefits (*for a covered family*) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

SPOUSE.....The husband or wife of the head of the household.

SUBSIDIZED PROJECT ....A multi-family housing project (*with the exception of a project owned by a cooperative housing mortgage corporation or association*) that receives the benefit of subsidy in the form of:

1. Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

DRAFT

2. Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

3. Direct loans pursuant to Section 202 of the Housing Act of 1959; or

4. Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 before amendment by the Housing and Community Development Act of 1974; or

5. Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency; or

6. A Public Housing Project.

SUBSIDY STANDARDS (*see OCCUPANCY STANDARDS*) ..... Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUSPENSION/TOLLING .. Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions and how the PHA determines the length of any extension or suspension.

TENANCY ADDENDUM .. For the HCV program, the lease language required by HUD in the lease between the tenant and the owner.

TENANT ..... The person or persons (*other than a live-in-aide*) who execute(s) the lease as lessee of the dwelling unit.

TENANT RENT..... The amount payable monthly by the family as rent to the unit owner.

TOTAL TENANT PAYMENT (TTP) ..... The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

DRAFT

TTY/TDD .....Text Telephones (TTY), also known as Telecommunications Device for the Deaf (TDD), are used by the deaf, hard–of–hearing and individuals with speech impairments to communicate.

UNIT .....Residential space for the private use of a family.

UNUSUAL EXPENSES .....Before the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES.....Means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE.....If the cost of utilities (*except telephone*) including range and refrigerator and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthy living environment.

UTILITY REIMBURSEMENT .....In the voucher program, the portion of the housing assistance payment that exceeds the amount of the rent to owner.

UTILITY REIMBURSEMENT PAYMENT .....In the pre-merger certificate program, the amount, if any, that the utility allowance for the unit, if applicable, exceeds the total tenant payment for the family occupying the unit.

VACANCY LOSS PAYMENTS .....(*For pre-merger certificate contracts effective before 10/2/95*) When a family vacates its unit in violation of its lease, the owner is eligible for eighty percent of the contract rent for a vacancy period of up to one additional month (*beyond the month that the vacancy occurred*) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit and does not reject any eligible applicant except for good cause.

DRAFT

VERY LOW-INCOME FAMILY ..... A lower-income family whose annual income does not exceed fifty percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than fifty percent of the median income for the area based on its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the voucher program.

VETERAN ..... A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

VIOLENT CRIMINAL ACTIVITY ..... Any illegal criminal activity that has as one of its elements the use, attempted use or threatened use of physical force against the person or property of another.

VOUCHER ..... A document issued by a PHA to a family selected for admission to the HCV program. This document describes the program and the procedures for PHA approval of a rental unit selected by the family. The voucher also states the obligations of the family under the HCV program.

VOUCHER HOLDER ..... A family holding a voucher with an unexpired term (*search time*).

VOUCHER PROGRAM .... The HCV program.

WAITING LIST ..... A list of families organized according to HUD regulations and PHA policy that are waiting for subsidy to become available.

WAITING LIST ADMISSION ..... An admission from the PHA waiting list.

WELFARE ASSISTANCE .. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” only includes cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but do not include food stamps, emergency rental and utilities assistance, Supplemental Security Income (SSI), Social Security Disability Income (SSDI) or Social Security.

DRAFT

C. GLOSSARY OF TERMS USED IN THE NON-CITIZENS RULE

CHILD.....A member of the family other than the family head or spouse who is under 18 years of age.

CIS.....The U. S. Citizenship and Immigration Service.

CITIZEN .....A citizen or *(a)* national of the United States.

EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS .....The documents that must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD.....The adult member of the family who is the head of the household for determining income eligibility and rent.

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

MIXED FAMILY .....A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

NATIONAL .....A person who owes permanent allegiance to the United States; for example, because of birth in a United States territory or possession.

NON-CITIZEN .....A person who is neither a citizen nor a national of the United States.

PHA.....A housing authority that operates public housing.

RESPONSIBLE ENTITY .....The person or entity responsible for administering the restrictions on assisting non-citizens with ineligible immigration status (*i.e. or e.g.,* the PHA).

SECTION 214 .....Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (*42 U.S.C. 1436a*).

SPOUSE.....The marriage partner, either a husband or wife, who is the person whom one would need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others or “co-heads.”

DRAFT

5923 “Co-head” is a term recognized by some HUD programs, but not by
5924 public and Indian housing programs.

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Chapter 21 PROGRAM INTEGRITY ADDENDUM [24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The U. S. Department of Housing and Urban Development conservatively estimates that six-hundred million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that twelve percent of all HUD-assisted families are either totally ineligible or are receiving benefits that exceed their legal entitlement.

The PHA is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained.

The PHA will take all steps necessary to prevent fraud, waste and mismanagement so that program resources are utilized judiciously.

This Chapter outlines the PHA's policies for the prevention, detection and investigation of program abuse and fraud.

Consideration of Remedies

In the case of family-caused errors or program abuse, the PHA will take into consideration

1. the seriousness of the offense and the extent of participation or culpability of individual family members, and

2. special circumstances surrounding the case,

3. any mitigating circumstances related to the disability of a family member,

4. the effects of the particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA will take into consideration

1. the seriousness of the offense,

2. the length of time since the violation has occurred and

3. the effects of a particular remedy on family members who are not involved in the offense.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD

DRAFT

requirements, provisions of the voucher and other program rules. The PHA staff will make every effort (*formally and informally*) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, to the community and to eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA' s attention, to investigate such claims.

The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

1. **Referrals, Complaints or Tips**. The PHA will follow up on referrals received by mail, by telephone or in person from other agencies, companies or persons that allege that a family is in non-compliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

2. **Internal File Review**. A follow-up will be made if PHA staff discovers (*as a function of a certification or recertification, an interim redetermination or a quality control review*), information or facts that conflict with previous file data, the PHA's knowledge of the family or statements made by the family.

3. **Verification of Documentation**. A follow-up will be made if the PHA receives independent verification or documentation that conflicts with representations in the family's file (*such as public record information or reports from credit bureau or other agencies*).

B. **STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

The PHA management and staff will utilize various methods and practices (*listed below*) to prevent program abuse, non-compliance and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

Things You Should Know (HUD-1140-OIG). This program integrity bulletin (*created by HUD's inspector general*) will be furnished and explained to all applicants to promote understanding of program rules and to clarify the PHA's expectations for cooperation and compliance.

Program Orientation Session. Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, either before or upon issuance of a voucher. At the conclusion of all program orientation Sessions, the family representative will be required to sign a “program briefing certificate” to confirm that all rules and pertinent regulations were explained to them.

DRAFT

Resident Counseling. The PHA will routinely provide participant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and Explanation of Forms. Staff will explain all required forms and review the contents of all re-certification documents before signature.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

Participant Certification. All family representatives will be required to sign a participant certification form.

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Before initial certification and at the completion of all subsequent re-certifications**,** five percent of the participant file will be reviewed. Such reviews shall include, but are not limited to:

1. Assurance that verification of all income and deductions is present.
2. Changes in reported Social Security Numbers or dates of birth.
3. Authenticity of file documents.
4. Ratio between reported income and expenditures.
5. Review of signatures for consistency with previously signed file documents.
6. All forms are correctly dated and signed.

Observation. The PHA management and occupancy staff (*to include inspection personnel*) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Observations will be documented in the family's file.

Public Record Bulletins may be reviewed by management and staff.

State Wage Data Record Keepers. Inquiries to state wage and employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits

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Credit Bureau Inquiries. Credit bureau inquiries may be made (*with proper authorization by the participant*) in the following circumstances:

1. At the time of final eligibility determination

2. When an allegation is received by the PHA wherein unreported income sources are disclosed

D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all participating families to report suspected abuse to the Housing Director**.** All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The Housing Director will not follow up on allegations that are vague or otherwise non-specific. They will only review allegations that contain one or more independently verifiable facts.

File Review. An internal file review will be conducted to determine whether the subject of the allegation is a client of the PHA and, if so, to determine whether the information reported has been previously disclosed by the family.

The PHA will then determine whether it is the most appropriate authority to do a follow-up (*more so than police or social services*). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and the fact(s) are independently verifiable, the supervisor will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If the owner has been overpaid because of fraud, misrepresentation or violation of the HAP contract, the PHA may terminate the contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made because of owner fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the executive director to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all

DRAFT

cases, the PHA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.

Verification of Credit. In cases where the financial activity conflicts with file data, a *Verification of Credit* form may be mailed to the creditor in order to determine the unreported income source.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review may be interviewed.

Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records. If relevant, the PHA will review public records kept in any jurisdictional courthouse. Examples of public records that may be checked are:

1. real estate records,
2. marriage and divorce records,
3. uniform commercial code financing statements,
4. voter registration rolls,
5. judgments,
6. court or police records,
7. state wage records,
8. utility records and
9. postal records.

Interviews with Head of Household or Family Members. The PHA will discuss the allegation (*or details thereof*) with the head of household or family member by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will

DRAFT

inflammatory language, accusation or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

G. **PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE PHA**

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will either be kept in the participant's file or in a separate "work file." In either case, the participant's file or work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among PHA staff that are involved in the process or have information that may assist in the investigation.

H. **CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the executive director or designee. It will then be determined whether the facts are inconclusive and if so, whether a violation has or has not occurred.

I. **EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

1. What type of violation has occurred (*procedural, non-compliance, fraud*)

2. Whether the violation was intentional or unintentional.

3. What amount of money (*if any*) is owed by the family.

4. If the family is eligible for continued occupancy.

J. **ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED**

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

Procedural Non-compliance. This category applies when the family "fails to" observe a procedure or requirement of the PHA , but does not misrepresent a material fact and there is no retroactive assistance payments owed by the family.

Examples of non-compliance violations are:

1. Failure to appear at a pre-scheduled appointment.

2. Failure to return verification in period specified by the PHA.

Warning Notice to the Family.

DRAFT

In such cases, a notice will be sent to the family that contains the following:

1. A description of the non-compliance and the procedure, policy or obligation that was violated.

2. The date that the violation must be corrected or the procedure complied with.

3. The action that will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA.

4. The consequences of repeated (*similar*) violations.

Procedural Non-compliance - Overpaid Assistance. When the family owes money to the PHA for failure to report changes in income or assets, the PHA will issue a notification of overpayment of assistance. This notice will contain the following:

1. A description of the violation and the date(s).

2. Any amounts owed to the PHA.

3. Notification of a ten-calendar day response period.

4. Acknowledgement of the family's right to disagree and to request an informal hearing with instructions for the request of such hearing.

Participant Fails to Comply with PHA's Notice. If the Participant fails to comply with the PHA's notice and a family obligation has been violated, the PHA will initiate termination of assistance.

Participant Complies with PHA's Notice. When a family complies with the PHA's notice, the staff person responsible will meet with him/her to discuss and explain the family obligation or program rule that was violated. The staff person will complete a participant counseling report, give one copy to the family and retain a copy in the family's file.

Intentional Misrepresentations. When a participant falsifies, misstates, omits or otherwise misrepresents a material fact that results (*or would have resulted*) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not:

1. The participant had knowledge that his/her actions were wrong and

2. The participant willfully violated the family obligations or the law.

Knowledge. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certificate, personal declaration and are adequate to establish knowledge of wrong-doing.

DRAFT

Willful Intent. Any of the following circumstances will be considered adequate to demonstrate willful intent:

1. An admission by the participant of the misrepresentation.

2. Repetition of the misrepresentation.

3. Using a false name or Social Security Number.

4. Admissions of the illegal action or omission by the participant to others.

5. Omission of material facts known to the participant (*e.g., employment of the participant or other household member*).

6. Falsification, forgery or altering documents.

7. Uttering and certifying to statements at an interim re-determination that were later independently verified to be false.

Dispositions of Cases Involving Misrepresentations. In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution: If the PHA has established criminal intent and the case meets the criteria for prosecution, the PHA will:

Refer the case to the local State's Attorney, notify HUD's Regional Inspector General for Investigation (RIGI) and terminate rental assistance.

Administrative Remedies: The PHA will at its discretion:

1. Terminate assistance and demand payment of restitution in full.

2. Terminate assistance and execute an administrative repayment agreement in accordance with the PHA's Repayment Policy.

Terminate assistance and pursue restitution through civil litigation.

DRAFT

6167 **Chapter 22** **MEDICAL AND DENTAL ADDENDUM IRS PUBLICATION 502**

6168 (Rev. 2012)

6169 Medical and Dental Expenses
6170 (Including the Health Coverage Tax Credit)
6171 For use in preparing 2012 Returns
6172 Catalog Number 15002Q
6173 Provided by the IRS AMC
6174 (Alternative Media Center)
6175
6176 Contract No. 645-161/34899
6177
6178 **TABLE OF CONTENTS**

6179 What's New 1
6180 Reminders 1
6181 Introduction 2
6182 What Are Medical Expenses? 2
6183 What Expenses Can You Include This Year? 2
6184 How Much of the Expenses Can You Deduct? 3
6185 Whose Medical Expenses Can You Include? 3
6186 What Medical Expenses Are Includible? 5
6187 What Expenses Are Not Includible? 15
6188 How Do You Treat Reimbursements? 17
6189 How Do You Figure and Report the Deduction on Your Tax Return? 21
6190 Sale of Medical Equipment or Property 22
6191 Damages for Personal Injuries 24
6192 Impairment-Related Work Expenses 25
6193 Health Insurance Costs for Self-Employed Persons 25
6194 COBRA Premium Assistance 26
6195 Health Coverage Tax Credit 27
6196 How To Get Tax Help 30
6197 Index 33

6198

6199

DRAFT

Page 1

Publication 502 Medical and Dental Expenses (Including the Health Coverage Tax Credit)

For use in preparing 2012 Returns
Department of the Treasury
Internal Revenue Service
Cat. No. 15002Q

Dec 10, 2012

Get forms and other information faster and easier by: Internet IRS.gov

What's New

Standard mileage rate. The standard mileage rate allowed for operating expenses for a car when you use it for medical reasons is 23 cents per mile. See Transportation under What Medical Expenses Are Includible.

Reminders

Future developments. For the latest information about developments related to Publication 502, such as legislation enacted after it was published, go to www.irs.gov/pub502.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

DRAFT

Introduction

This publication explains the itemized deduction for medical and dental expenses that you claim on Schedule A (Form 1040). It discusses what expenses, and whose expenses, you can and cannot include in figuring the deduction. It explains how to treat reimbursements and how to figure the deduction. It also tells you how to report the deduction on your tax return and what to do if you sell medical property or receive damages for a personal injury.

Medical expenses include dental expenses, and in this publication the term "medical expenses" is often used to refer to medical and dental expenses.

You can deduct on Schedule A (Form 1040) only the part of your medical and dental expenses that is more than 7.5% of your adjusted gross income (AGI). If your medical and dental expenses are not more than 7.5% of your AGI, you cannot claim a deduction.

This publication also explains how to treat impairment-related work expenses, health insurance premiums if you are self-employed, and the health coverage tax credit that is available to certain individuals.

Pub. 502 covers many common medical expenses but not every possible medical expense. If you cannot find the expense you are looking for, refer to the definition of medical expenses under What Are Medical Expenses.

See How To Get Tax Help near the end of this publication for information about getting publications and forms.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
Individual and Specialty Forms and Publications Branch
SE:W:CAR:MP:T:I
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at taxforms@irs.gov. Please put "Publications Comment" on the subject line. You can also send us comments from www.irs.gov/formspubs/. Select "Comment on Tax Forms and Publications" under "More Information."

Although we cannot respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax products.

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DRAFT

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Tax questions. If you have a tax question, check the information available on IRS.gov or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

Useful Items

You may want to see:

Publication

969 Health Savings Accounts and Other Tax-Favored Health Plans Forms (and Instructions)

1040 U. S. Individual Income Tax Return

Schedule A (Form 1040) Itemized Deductions

8885 Health Coverage Tax Credit

What Are Medical Expenses?

Medical expenses are the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body. These expenses include payments for legal medical services rendered by physicians, surgeons, dentists, and other medical practitioners. They include the costs of equipment, supplies, and diagnostic devices needed for these purposes.

Medical care expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or a vacation.

Medical expenses include the premiums you pay for insurance that covers the expenses of medical care, and the amounts you pay for transportation to get medical care. Medical expenses also include amounts paid for qualified long-term care services and limited amounts paid for any qualified long-term care insurance contract.

What Expenses Can You Include This Year?

You can include only the medical and dental expenses you paid this year, regardless of when the services were provided. (But see Decedent under Whose Medical Expenses Can You Include, for an exception.) If you pay medical expenses by check, the day you mail or deliver the check generally is the date of payment. If you use a "pay-by-phone" or "online" account to pay your medical expenses, the date reported on the statement of the financial institution showing when payment was made is the date of payment. If you use a credit card, include medical

DRAFT

expenses you charge to your credit card in the year the charge is made, not when you actually pay the amount charged.

If you did not claim a medical or dental expense that would have been deductible in an earlier year, you can file Form 1040X, Amended U. S. Individual Income Tax Return, for the year in which you overlooked the expense. Do not claim the expense on this year's return. Generally, an amended return must be filed within 3 years from the date the original return was filed or within 2 years from the time the tax was paid, whichever is later.

You cannot include medical expenses that were paid by insurance companies or other sources. This is true whether the payments were made directly to you, to the patient, or to the provider of the medical services.

Separate returns. If you and your spouse live in a non-community property state and file separate returns, each of you can include only the medical expenses each actually paid. Any medical expenses paid out of a joint checking account in which you and your spouse have the same interest are considered to have been paid equally by each of you, unless you can show otherwise.

Community property states. If you and your spouse live in a community property state and file separate returns or are registered domestic partners in Nevada, Washington, or California (or a person in California who is married to a person of the same sex), any medical expenses paid out of community funds are divided equally. Generally, each of you should include half the expenses. If medical expenses are paid out of the separate funds of one individual, only the individual who paid the medical expenses can include them. If you live in a community property state and are not filing a joint return, see Publication 555, Community Property.

How Much of the Expenses Can You Deduct?

You can deduct on Schedule A (Form 1040) only the amount of your medical and dental expenses that is more than 7.5% of your AGI (Form 1040, line 38).

In this publication, the term "7.5% limit" is used to refer to 7.5% of your AGI. The phrase "subject to the 7.5% limit" is also used. This phrase means that you must subtract 7.5% (.075) of your AGI from your medical expenses to figure your medical expense deduction.

Example. Your AGI is $40,000, 7.5% of which is $3,000. You paid medical expenses of $2,500. You cannot deduct any of your medical expenses because they are not more than 7.5% of your AGI.

Whose Medical Expenses Can You Include?

You can generally include medical expenses you pay for yourself, as well as those you pay for someone who was your spouse or your dependent either when the services were provided or when you paid for them. There are different rules for decedents and for individuals who are the subject of multiple support agreements. See Support claimed under a multiple support agreement, later under Qualifying Person.

DRAFT

Yourself

You can include medical expenses that you paid for yourself.

Spouse

You can include medical expenses you paid for your spouse. To include these expenses, you must have been married either at the time your spouse received the medical services or at the time you paid the medical expenses.

Example 1. Mary received medical treatment before she married Bill. Bill paid for the treatment after they married. Bill can include these expenses in figuring his medical expense deduction even if Bill and Mary file separate returns.

If Mary had paid the expenses, Bill could not include Mary's expenses in his separate return. Mary would include the amounts she paid during the year in her separate return. If they filed a joint return, the medical expenses both paid during the year would be used to figure their medical expense deduction.

Example 2. This year, John paid medical expenses for his wife Louise, who died last year. John married Belle this year and they file a joint return. Because John was married to Louise when she received the medical services, he can include those expenses in figuring his medical expense deduction for this year.

Dependent

You can include medical expenses you paid for your dependent. For you to include these expenses, the person must have been your dependent either at the time the medical services were provided or at the time you paid the expenses. A person generally qualifies as your dependent for purposes of the medical expense deduction if both of the following requirements are met.

1. The person was a Qualifying Child (defined later) or a Qualifying Relative (defined later), and

2. The person was a U. S. citizen or national or a resident of the United States, Canada, or Mexico. If your qualifying child was adopted, see Exception for adopted child, later.

DRAFT

You can include medical expenses you paid for an individual that would have been your dependent except that:

1. He or she received gross income of $3,800 or more in 2012,

2. He or she filed a joint return for 2012, or

3. You, or your spouse if filing jointly, could be claimed as a dependent on someone else's 2012 return.

Exception for adopted child. If you are a U. S. citizen or national and your adopted child lived with you as a member of your household for 2012, that child does not have to be a U. S. citizen or national, or a resident of the United States, Canada, or Mexico.

Qualifying Child

A qualifying child is a child who:

1. Is your son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, half brother, half sister, or a descendant of any of them (for example, your grandchild, niece, or nephew),

2. Was:

a. Under age 19 at the end of 2012 and younger than you (or your spouse, if filing jointly),

b. Under age 24 at the end of 2012, a full-time student, and younger than you (or your spouse, if filing jointly), or

c. Any age and permanently and totally disabled,

3. Lived with you for more than half of 2012,

4. Did not provide over half of his or her own support for 2012, and

5. Did not file a joint return, other than to claim a refund.

Adopted child. A legally adopted child is treated as your own child. This child includes a child lawfully placed with you for legal adoption.

You can include medical expenses that you paid for a child before adoption if the child qualified as your dependent when the medical services were provided or when the expenses were paid.

If you pay back an adoption agency or other persons for medical expenses they paid under an agreement with you, you are treated as having paid those expenses provided you clearly substantiate that the payment is directly attributable to the medical care of the child.

But if you pay the agency or other person for medical care that was provided and paid for before adoption negotiations began, you cannot include them as medical expenses.

Tip: You may be able to take a credit for other expenses related to an adoption. See the Instructions for Form 8839, Qualified Adoption Expenses, for more information.

DRAFT

Child of divorced or separated parents. For purposes of the medical and dental expenses deduction, a child of divorced or separated parents can be treated as a dependent of both parents. Each parent can include the medical expenses he or she pays for the child, even if the other parent claims the child's dependency exemption, if:

1. The child is in the custody of one or both parents for more than half the year,

2. The child receives over half of his or her support during the year from his or her parents, and

3. The child's parents:

a. Are divorced or legally separated under a decree of divorce or separate maintenance,

b. Are separated under a written separation agreement, or

c. Live apart at all times during the last 6 months of the year.

This does not apply if the child's exemption is being claimed under a multiple support agreement (discussed later).

Qualifying Relative

A qualifying relative is a person:

1. Who is your:

a. Son, daughter, stepchild, or foster child, or a descendant of any of them (for example, your grandchild),

b. Brother, sister, half brother, half sister, or a son or daughter of any of them,

c. Father, mother, or an ancestor or sibling of either of them (for example, your grandmother, grandfather, aunt, or uncle),

d. Stepbrother, stepsister, stepfather, stepmother, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law, or

e. Any other person (other than your spouse) who lived with you all year as a member of your household if your relationship did not violate local law,

2. Who was not a qualifying child (see Qualifying Child, earlier) of any taxpayer for 2012, and

3. For whom you provided over half of the support in 2012. But see Child of divorced or separated parents, earlier, Support claimed under a multiple support agreement, next, and Kidnapped child under Qualifying Relative in Publication 501, Exemptions, Standard Deduction, and Filing Information.

Support claimed under a multiple support agreement. If you are considered to have provided more than half of a qualifying relative's support under a multiple support agreement, you can include medical expenses you pay for that person. A multiple support agreement is used when two or more people provide more than half of a person's support, but no one alone provides more than half.

DRAFT

Any medical expenses paid by others who joined you in the agreement cannot be included as medical expenses by anyone. However, you can include the entire unreimbursed amount you paid for medical expenses.

Example. You and your three brothers each provide one-fourth of your mother's total support. Under a multiple support agreement, you treat your mother as your dependent. You paid all of her medical expenses. Your brothers repaid you for three-fourths of these expenses. In figuring your medical expense deduction, you can include only one-fourth of your mother's medical expenses. Your brothers cannot include any part of the expenses. However, if you and your brothers share the nonmedical support items and you separately pay all of your mother's medical expenses, you can include the unreimbursed amount you paid for her medical expenses in your medical expenses.

Decedent

Medical expenses paid before death by the decedent are included in figuring any deduction for medical and dental expenses on the decedent's final income tax return. This includes expenses for the decedent's spouse and dependents as well as for the decedent.

The survivor or personal representative of a decedent can choose to treat certain expenses paid by the decedent's estate for the decedent's medical care as paid by the decedent at the time the medical services were provided. The expenses must be paid within the 1-year period beginning with the day after the date of death. If you are the survivor or personal representative making this choice, you must attach a statement to the decedent's Form 1040 (or the decedent's amended return, Form 1040X) saying that the expenses have not been and will not be claimed on the estate tax return.

Caution! Qualified medical expenses paid before death by the decedent are not deductible if paid with a tax-free distribution from any Archer MSA, Medicare Advantage MSA, or health savings account.

What if the decedent's return had been filed and the medical expenses were not included? Form 1040X can be filed for the year or years the expenses are treated as paid, unless the period for filing an amended return for that year has passed. Generally, an amended return must be filed within 3 years of the date the original return was filed, or within 2 years from the time the tax was paid, whichever date is later.

Example. John properly filed his 2011 income tax return. He died in 2012 with unpaid medical expenses of $1,500 from 2011 and $1,800 in 2012. If the expenses are paid within the 1-year period, his survivor or personal representative can file an amended return for 2011 claiming a deduction based on the $1,500 medical expenses. The $1,800 of medical expenses from 2012 can be included on the decedent's final return for 2012.

What if you pay medical expenses of a deceased spouse or dependent? If you paid medical expenses for your deceased spouse or dependent, include them as medical expenses on your Form 1040 in the year paid, whether they are paid before or after the decedent's death. The

DRAFT

expenses can be included if the person was your spouse or dependent either at the time the medical services were provided or at the time you paid the expenses.

What Medical Expenses Are Includible?

Following is a list of items that you can include in figuring your medical expense deduction. The items are listed in alphabetical order.

This list does not include all possible medical expenses. To determine if an expense not listed can be included in figuring your medical expense deduction, see What Are Medical Expenses, earlier.

Abortion

You can include in medical expenses the amount you pay for a legal abortion.

Acupuncture

You can include in medical expenses the amount you pay for acupuncture.

Alcoholism

You can include in medical expenses amounts you pay for an inpatient's treatment at a therapeutic center for alcohol addiction. This includes meals and lodging provided by the center during treatment.

You can also include in medical expenses amounts you pay for transportation to and from Alcoholics Anonymous meetings in your community if the attendance is pursuant to medical advice that membership in Alcoholics Anonymous is necessary for the treatment of a disease involving the excessive use of alcoholic liquors.

Ambulance

You can include in medical expenses amounts you pay for ambulance service.

Annual Physical Examination

See Physical Examination, later.

Artificial Limb

You can include in medical expenses the amount you pay for an artificial limb.

DRAFT

Artificial Teeth

You can include in medical expenses the amount you pay for artificial teeth.

Autoette

See Wheelchair, later.

Bandages

You can include in medical expenses the cost of medical supplies such as bandages.

Birth Control Pills

You can include in medical expenses the amount you pay for birth control pills prescribed by a doctor.

Body Scan

You can include in medical expenses the cost of an electronic body scan.

Braille Books and Magazines

You can include in medical expenses the part of the cost of Braille books and magazines for use by a visually impaired person that is more than the cost of regular printed editions.

Breast Pumps and Supplies

You can include in medical expenses the cost of breast pumps and supplies that assist lactation.

Breast Reconstruction Surgery

You can include in medical expenses the amounts you pay for breast reconstruction surgery, as well as breast prosthesis, following a mastectomy for cancer. See Cosmetic Surgery, later.

Capital Expenses

You can include in medical expenses amounts you pay for special equipment installed in a home, or for improvements, if their main purpose is medical care for you, your spouse, or your dependent. The cost of permanent improvements that increase the value of your property may be partly included as a medical expense. The cost of the improvement is reduced by the increase in the value of your property. The difference is a medical expense. If the value of your property is not increased by the improvement, the entire cost is included as a medical expense.

Certain improvements made to accommodate a home to your disabled condition, or that of your spouse or your dependents who live with you, do not usually increase the value of the home and the cost can be included in full as medical expenses. These improvements include, but are not limited to, the following items.

Constructing entrance or exit ramps for your home.

Widening doorways at entrances or exits to your home.

Widening or otherwise modifying hallways and interior doorways.

DRAFT

Installing railings, support bars, or other modifications to bathrooms.

Lowering or modifying kitchen cabinets and equipment.

Moving or modifying electrical outlets and fixtures.

Installing porch lifts and other forms of lifts (but elevators generally add value to the house).

Modifying fire alarms, smoke detectors, and other warning systems.

Modifying stairways.

Adding handrails or grab bars anywhere (whether or not in bathrooms).

Modifying hardware on doors.

Modifying areas in front of entrance and exit doorways.

Grading the ground to provide access to the residence.

Only reasonable costs to accommodate a home to a disabled condition are considered medical care. Additional costs for personal motives, such as for architectural or aesthetic reasons, are not medical expenses.

Capital expense worksheet. Use Worksheet A to figure the amount of your capital expense to include in your medical expenses.

DRAFT

Worksheet A. Capital Expense Worksheet

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet to figure the amount, if any, of your medical expenses due to a home improvement.

1. Enter the amount you paid for the home improvement ----

2. Enter the value of your home immediately after the improvement ----

3. Enter the value of your home immediately before the improvement ----

4. Subtract line 3 from line 2. This is the increase in the value of your home due to the improvement. ----

If line 4 is more than or equal to line 1, you have no medical expenses due to the home improvement; stop here.

If line 4 is less than line 1, go to line 5.

5. Subtract line 4 from line 1. These are your medical expenses due to the home improvement. ----

Example. You have a heart ailment. On your doctor's advice, you install an elevator in your home so that you will not have to climb stairs. The elevator costs $8,000. An appraisal shows that the elevator increases the value of your home by $4,400. You figure your medical expense as shown in the filled-in example of Worksheet A.

Worksheet A. Capital Expense Worksheet--Illustrated

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet to figure the amount, if any, of your medical expenses due to a home improvement.

1. Enter the amount you paid for the home improvement 8,000

2. Enter the value of your home immediately after the improvement 124,400

3. Enter the value of your home immediately before the improvement 120,000

4. Subtract line 3 from line 2. This is the increase in the value of your home due to the improvement. 4,400

If line 4 is more than or equal to line 1, you have no medical expenses due to the home improvement; stop here.

If line 4 is less than line 1, go to line 5.

5. Subtract line 4 from line 1. These are your medical expenses due to the home improvement. 3,600

DRAFT

Operation and upkeep. Amounts you pay for operation and upkeep of a capital asset qualify as medical expenses, as long as the main reason for them is medical care. This rule applies even if none or only part of the original cost of the capital asset qualified as a medical care expense.

Example. If, in the previous example, the elevator increased the value of your home by $8,000, you would have no medical expense for the cost of the elevator. However, the cost of electricity to operate the elevator and any costs to maintain it are medical expenses as long as the medical reason for the elevator exists.

Improvements to property rented by a person with a disability. Amounts paid to buy and install special plumbing fixtures for a person with a disability, mainly for medical reasons, in a rented house are medical expenses.

Example. John has arthritis and a heart condition. He cannot climb stairs or get into a bathtub. On his doctor's advice, he installs a bathroom with a shower stall on the first floor of his two-story rented house. The landlord did not pay any of the cost of buying and installing the special plumbing and did not lower the rent. John can include in medical expenses the entire amount he paid.

Car

You can include in medical expenses the cost of special hand controls and other special equipment installed in a car for the use of a person with a disability.

DRAFT

Special design. You can include in medical expenses the difference between the cost of a regular car and a car specially designed to hold a wheelchair.

Cost of operation. The includible costs of using a car for medical reasons are explained under Transportation, later.

Chiropractor

You can include in medical expenses fees you pay to a chiropractor for medical care.

Christian Science Practitioner

You can include in medical expenses fees you pay to Christian Science practitioners for medical care.

Contact Lenses

You can include in medical expenses amounts you pay for contact lenses needed for medical reasons. You can also include the cost of equipment and materials required for using contact lenses, such as saline solution and enzyme cleaner. See Eyeglasses and Eye Surgery, later.

Crutches

You can include in medical expenses the amount you pay to buy or rent crutches.

Dental Treatment

You can include in medical expenses the amounts you pay for the prevention and alleviation of dental disease. Preventive treatment includes the services of a dental hygienist or dentist for such procedures as teeth cleaning, the application of sealants, and fluoride treatments to prevent tooth decay. Treatment to alleviate dental disease include services of a dentist for procedures such as X-rays, fillings, braces, extractions, dentures, and other dental ailments. But see Teeth Whitening under What Expenses Are Not Includible, later.

Diagnostic Devices

You can include in medical expenses the cost of devices used in diagnosing and treating illness and disease.

Example. You have diabetes and use a blood sugar test kit to monitor your blood sugar level. You can include the cost of the blood sugar test kit in your medical expenses.

Disabled Dependent Care Expenses

Some disabled dependent care expenses may qualify as either:

Medical expenses, or

Work-related expenses for purposes of taking a credit for dependent care. (See Publication 503, Child and Dependent Care Expenses.)

You can choose to apply them either way as long as you do not use the same expenses to claim both a credit and a medical expense deduction.

DRAFT

Drug Addiction

You can include in medical expenses amounts you pay for an inpatient's treatment at a therapeutic center for drug addiction. This includes meals and lodging at the center during treatment.

Drugs

See Medicines, later.

Eye Exam

You can include in medical expenses the amount you pay for eye examinations.

Eyeglasses

You can include in medical expenses amounts you pay for eyeglasses and contact lenses needed for medical reasons. See Contact Lenses, earlier, for more information.

Eye Surgery

You can include in medical expenses the amount you pay for eye surgery to treat defective vision, such as laser eye surgery or radial keratotomy.

Fertility Enhancement

You can include in medical expenses the cost of the following procedures to overcome an inability to have children.

Procedures such as in vitro fertilization (including temporary storage of eggs or sperm).

Surgery, including an operation to reverse prior surgery that prevented the person operated on from having children.

Founder's Fee

See Lifetime Care--Advance Payments, later.

Guide Dog or Other Service Animal

You can include in medical expenses the costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.

DRAFT

Health Institute

You can include in medical expenses fees you pay for treatment at a health institute only if the treatment is prescribed by a physician and the physician issues a statement that the treatment is necessary to alleviate a physical or mental defect or illness of the individual receiving the treatment.

Health Maintenance Organization (HMO)

You can include in medical expenses amounts you pay to entitle you, your spouse, or a dependent to receive medical care from an HMO. These amounts are treated as medical insurance premiums. See Insurance Premiums, later.

Hearing Aids

You can include in medical expenses the cost of a hearing aid and batteries, repairs, and maintenance needed to operate it.

Home Care

See Nursing Services, later.

Home Improvements

See Capital Expenses, earlier.

Hospital Services

You can include in medical expenses amounts you pay for the cost of inpatient care at a hospital or similar institution if a principal reason for being there is to receive medical care. This includes amounts paid for meals and lodging. Also see Lodging, later.

Insurance Premiums

You can include in medical expenses insurance premiums you pay for policies that cover medical care. Medical care policies can provide payment for treatment that includes:

Hospitalization, surgical services, X-rays,

Prescription drugs and insulin,

Dental care,

Replacement of lost or damaged contact lenses, and

Long-term care (subject to additional limitations). See Qualified Long-Term Care Insurance Contracts under Long-Term Care, later.

If you have a policy that provides payments for other than medical care, you can include the premiums for the medical care part of the policy if the charge for the medical part is reasonable. The cost of the medical part must be separately stated in the insurance contract or given to you in a separate statement.

DRAFT

Health coverage tax credit. If, during 2012, you were an eligible trade adjustment assistance (TAA) recipient, alternative TAA (ATAA) recipient, reemployment TAA (RTAA) recipient, or Pension Benefit Guaranty Corporation (PBGC) pension recipient, you must complete Form 8885 before completing Schedule A, line 1. When figuring the amount of insurance premiums you can deduct on Schedule A, do not include:

Any amounts you included on Form 8885, line 4,

Any qualified health insurance premiums you paid to "U. S. Treasury-HCTC," or

Any health coverage tax credit advance payments shown in box 1 of Form 1099-H.

Employer-Sponsored Health Insurance Plan

Do not include in your medical and dental expenses any insurance premiums paid by an employer-sponsored health insurance plan unless the premiums are included in box 1 of your Form W-2, Wage and Tax Statement. Also, do not include any other medical and dental expenses paid by the plan unless the amount paid is included in box 1 of your Form W-2.

Example. You are a federal employee participating in the premium conversion plan of the Federal Employee Health Benefits (FEHB) program. Your share of the FEHB premium is paid by making a pre-tax reduction in your salary. Because you are an employee whose insurance premiums are paid with money that is never included in your gross income, you cannot deduct the premiums paid with that money.

Long-term care services. Contributions made by your employer to provide coverage for qualified long-term care services under a flexible spending or similar arrangement must be included in your income. This amount will be reported as wages in box 1 of your Form W-2.

Retired public safety officers. If you are a retired public safety officer, do not include as medical expenses any health or long-term care insurance premiums that you elected to have paid with tax-free distributions from a retirement plan. This applies only to distributions that would otherwise be included in income.

Health reimbursement arrangement (HRA). If you have medical expenses that are reimbursed by a health reimbursement arrangement, you cannot include those expenses in your medical expenses. This is because an HRA is funded solely by the employer.

Medicare A

If you are covered under social security (or if you are a government employee who paid Medicare tax), you are enrolled in Medicare A. The payroll tax paid for Medicare A is not a medical expense.

DRAFT

If you are not covered under social security (or were not a government employee who paid Medicare tax), you can voluntarily enroll in Medicare A. In this situation you can include the premiums you paid for Medicare A as a medical expense.

Medicare B

Medicare B is a supplemental medical insurance. Premiums you pay for Medicare B are a medical expense. Check the information you received from the Social Security Administration to find out your premium.

Medicare D

Medicare D is a voluntary prescription drug insurance program for persons with Medicare A or B. You can include as a medical expense premiums you pay for Medicare D.

Prepaid Insurance Premiums

Premiums you pay before you are age 65 for insurance for medical care for yourself, your spouse, or your dependents after you reach age 65 are medical care expenses in the year paid if they are:

1. Payable in equal yearly installments or more often, and
2. Payable for at least 10 years, or until you reach age 65 (but not for less than 5 years).

Unused Sick Leave Used To Pay Premiums

You must include in gross income cash payments you receive at the time of retirement for unused sick leave. You also must include in gross income the value of unused sick leave that, at your option, your employer applies to the cost of your continuing participation in your employer's health plan after you retire. You can include this cost of continuing participation in the health plan as a medical expense.

If you participate in a health plan where your employer automatically applies the value of unused sick leave to the cost of your continuing participation in the health plan (and you do not have the option to receive cash), do not include the value of the unused sick leave in gross income. You cannot include this cost of continuing participation in that health plan as a medical expense.

Insurance Premiums You Cannot Include

You cannot include premiums you pay for:

Life insurance policies,

Policies providing payment for loss of earnings,

Policies for loss of life, limb, sight, etc.,

Policies that pay you a guaranteed amount each week for a stated number of weeks if you are hospitalized for sickness or injury,

DRAFT

The part of your car insurance that provides medical insurance coverage for all persons injured in or by your car because the part of the premium providing insurance for you, your spouse, and your dependents is not stated separately from the part of the premium providing insurance for medical care for others, or

Health or long-term care insurance if you elected to pay these premiums with tax-free distributions from a retirement plan made directly to the insurance provider and these distributions would otherwise have been included in income.

Taxes imposed by any governmental unit, such as Medicare taxes, are not insurance premiums.

Coverage for non-dependents. Generally, you cannot deduct any additional premium you pay as the result of including on your policy someone who is not your spouse or dependent, even if that person is your child under age 27. However, you can deduct the additional premium if that person is:

Your child whom you do not claim as a dependent because of the rules for children of divorced or separated parents,

Any person you could have claimed as a dependent on your return except that person received $3,800 or more of gross income or filed a joint return, or

Any person you could have claimed as a dependent except that you, or your spouse if filing jointly, can be claimed as a dependent on someone else's 2012 return.

Also, if you had family coverage when you added this individual to your policy and your premiums did not increase, you can enter on line 1 the full amount of your medical and dental insurance premiums.

Intellectually and Developmentally Disabled, Special Home for

You can include in medical expenses the cost of keeping a person who is intellectually and developmentally disabled in a special home, not the home of a relative, on the recommendation of a psychiatrist to help the person adjust from life in a mental hospital to community living.

Laboratory Fees

You can include in medical expenses the amounts you pay for laboratory fees that are part of medical care.

Lactation Expenses

See Breast Pumps and Supplies, earlier.

Lead-Based Paint Removal

You can include in medical expenses the cost of removing lead-based paints from surfaces in your home to prevent a child who has or had lead poisoning from eating the paint.

DRAFT

These surfaces must be in poor repair (peeling or cracking) or within the child's reach. The cost of repainting the scraped area is not a medical expense.

If, instead of removing the paint, you cover the area with wallboard or paneling, treat these items as capital expenses. See Capital Expenses, earlier. Do not include the cost of painting the wallboard as a medical expense.

Learning Disability

See Special Education, later.

Legal Fees

You can include in medical expenses legal fees you paid that are necessary to authorize treatment for mental illness. However, you cannot include in medical expenses fees for the management of a guardianship estate, fees for conducting the affairs of the person being treated, or other fees that are not necessary for medical care.

Lifetime Care--Advance Payments

You can include in medical expenses a part of a life-care fee or "founder's fee" you pay either monthly or as a lump sum under an agreement with a retirement home. The part of the payment you include is the amount properly allocable to medical care. The agreement must require that you pay a specific fee as a condition for the home's promise to provide lifetime care that includes medical care. You can use a statement from the retirement home to prove the amount properly allocable to medical care. The statement must be based either on the home's prior experience or on information from a comparable home.

Dependents with disabilities. You can include in medical expenses advance payments to a private institution for lifetime care, treatment, and training of your physically or mentally impaired child upon your death or when you become unable to provide care. The payments must be a condition for the institution's future acceptance of your child and must not be refundable.

Payments for future medical care. Generally, you cannot include in medical expenses current payments for medical care (including medical insurance) to be provided substantially beyond the end of the year. This rule does not apply in situations where the future care is purchased in connection with obtaining lifetime care of the type described earlier.

Lodging

You can include in medical expenses the cost of meals and lodging at a hospital or similar institution if a principal reason for being there is to receive medical care. See Nursing Home, later.

You may be able to include in medical expenses the cost of lodging not provided in a hospital or similar institution. You can include the cost of such lodging while away from home if all of the following requirements are met.

1. The lodging is primarily for and essential to medical care.

DRAFT

2. The medical care is provided by a doctor in a licensed hospital or in a medical care facility related to, or the equivalent of, a licensed hospital.

3. The lodging is not lavish or extravagant under the circumstances.

4. There is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount you include in medical expenses for lodging cannot be more than $50 for each night for each person. You can include lodging for a person traveling with the person receiving the medical care. For example, if a parent is traveling with a sick child, up to $100 per night can be included as a medical expense for lodging. Meals are not included.

Do not include the cost of lodging while away from home for medical treatment if that treatment is not received from a doctor in a licensed hospital or in a medical care facility related to, or the equivalent of, a licensed hospital or if that lodging is not primarily for or essential to the medical care received.

Long-Term Care

You can include in medical expenses amounts paid for qualified long-term care services and premiums paid for qualified long-term care insurance contracts.

Qualified Long-Term Care Services

Qualified long-term care services are necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative services, and maintenance and personal care services (defined later) that are:

1. Required by a chronically ill individual, and

2. Provided pursuant to a plan of care prescribed by a licensed health care practitioner.

Chronically ill individual. An individual is chronically ill if, within the previous 12 months, a licensed health care practitioner has certified that the individual meets either of the following descriptions.

1. He or she is unable to perform at least two activities of daily living without substantial assistance from another individual for at least 90 days, due to a loss of functional capacity. Activities of daily living are eating, toileting, transferring, bathing, dressing, and continence.

2. He or she requires substantial supervision to be protected from threats to health and safety due to severe cognitive impairment.

DRAFT

Maintenance and personal care services. Maintenance or personal care services is care which has as its primary purpose the providing of a chronically ill individual with needed assistance with his or her disabilities (including protection from threats to health and safety due to severe cognitive impairment).

Qualified Long-Term Care Insurance Contracts

A qualified long-term care insurance contract is an insurance contract that provides only coverage of qualified long-term care services. The contract must:

1. Be guaranteed renewable,

2. Not provide for a cash surrender value or other money that can be paid, assigned, pledged, or borrowed,

3. Provide that refunds, other than refunds on the death of the insured or complete surrender or cancellation of the contract, and dividends under the contract must be used only to reduce future premiums or increase future benefits, and

4. Generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or the contract makes per diem or other periodic payments without regard to expenses.

The amount of qualified long-term care premiums you can include is limited. You can include the following as medical expenses on Schedule A (Form 1040).

1. Qualified long-term care premiums up to the amounts shown below.

a. Age 40 or under--$350.

b. Age 41 to 50--$660.

c. Age 51 to 60--$1,310.

d. Age 61 to 70--$3,500.

e. Age 71 or over--$4,370.

2. Unreimbursed expenses for qualified long-term care services.

Note. The limit on premiums is for each person.

Also, if you are an eligible retired public safety officer, you cannot include premiums for long-term care insurance if you elected to pay these premiums with tax-free distributions from a qualified retirement plan made directly to the insurance provider and these distributions would otherwise have been included in your income.

Meals

You can include in medical expenses the cost of meals at a hospital or similar institution if a principal reason for being there is to get medical care.

You cannot include in medical expenses the cost of meals that are not part of inpatient care. Also see Weight-Loss Program and Nutritional Supplements, later.

DRAFT

Medical Conferences

You can include in medical expenses amounts paid for admission and transportation to a medical conference if the medical conference concerns the chronic illness of yourself, your spouse, or your dependent. The costs of the medical conference must be primarily for and necessary to the medical care of you, your spouse, or your dependent. The majority of the time spent at the conference must be spent attending sessions on medical information.

Caution! The cost of meals and lodging while attending the conference is not deductible as a medical expense.

Medical Information Plan

You can include in medical expenses amounts paid to a plan that keeps medical information in a computer data bank and retrieves and furnishes the information upon request to an attending physician.

Medicines

You can include in medical expenses amounts you pay for prescribed medicines and drugs. A prescribed drug is one that requires a prescription by a doctor for its use by an individual. You can also include amounts you pay for insulin. Except for insulin, you cannot include in medical expenses amounts you pay for a drug that is not prescribed.

Imported medicines and drugs. If you imported medicines or drugs from other countries, see Medicines and Drugs From Other Countries, under What Expenses Are Not Includible, later.

Nursing Home

You can include in medical expenses the cost of medical care in a nursing home, home for the aged, or similar institution, for yourself, your spouse, or your dependents. This includes the cost of meals and lodging in the home if a principal reason for being there is to get medical care.

Do not include the cost of meals and lodging if the reason for being in the home is personal. You can, however, include in medical expenses the part of the cost that is for medical or nursing care.

Nursing Services

You can include in medical expenses wages and other amounts you pay for nursing services. The services need not be performed by a nurse as long as the services are of a kind generally performed by a nurse. This includes services connected with caring for the patient's condition, such as giving medication or changing dressings, as well

DRAFT

as bathing and grooming the patient. These services can be provided in your home or another care facility.

Generally, only the amount spent for nursing services is a medical expense. If the attendant also provides personal and household services, amounts paid to the attendant must be divided between the time spent performing household and personal services and the time spent for nursing services. For example, because of your medical condition you pay a visiting nurse $300 per week for medical and household services. She spends 10% of her time doing household services such as washing dishes and laundry. You can include only $270 per week as medical expenses. The $30 (10% multiplied by $300) allocated to household services cannot be included. However, certain maintenance or personal care services provided for qualified long-term care can be included in medical expenses. See Maintenance and personal care services under Long-Term Care, earlier. Additionally, certain expenses for household services or for the care of a qualifying individual incurred to allow you to work may qualify for the child and dependent care credit. See Publication 503, Child and Dependent Care Expenses.

You can also include in medical expenses part of the amount you pay for that attendant's meals. Divide the food expense among the household members to find the cost of the attendant's food. Then divide that cost in the same manner as in the preceding paragraph. If you had to pay additional amounts for household upkeep because of the attendant, you can include the extra amounts with your medical expenses. This includes extra rent or utilities you pay because you moved to a larger apartment to provide space for the attendant.

Employment taxes. You can include as a medical expense social security tax, FUTA, Medicare tax, and state employment taxes you pay for an attendant who provides medical care. If the attendant also provides personal and household services, you can include as a medical expense only the amount of employment taxes paid for medical services as explained earlier. For information on employment tax responsibilities of household employers, see Publication 926, Household Employer's Tax Guide.

Operations

You can include in medical expenses amounts you pay for legal operations that are not for unnecessary cosmetic surgery. See Cosmetic Surgery under What Expenses Are Not Includible, later.

Optometrist

See Eyeglasses, earlier.

Organ Donors

See Transplants, later.

Osteopath

You can include in medical expenses amounts you pay to an osteopath for medical care.

Oxygen

DRAFT

You can include in medical expenses amounts you pay for oxygen and oxygen equipment to relieve breathing problems caused by a medical condition.

Physical Examination

You can include in medical expenses the amount you pay for an annual physical examination and diagnostic tests by a physician. You do not have to be ill at the time of the examination.

Example. Beth goes to see Dr. Hayes for her annual check-up. Dr. Hayes does a physical examination and has some lab tests done. Beth can include the cost of the exam and lab tests in her medical expenses, if her insurance does not cover the cost.

Pregnancy Test Kit

You can include in medical expenses the amount you pay to purchase a pregnancy test kit to determine if you are pregnant.

Prosthesis

See Artificial Limb and Breast Reconstruction Surgery, earlier.

Psychiatric Care

You can include in medical expenses amounts you pay for psychiatric care. This includes the cost of supporting a mentally ill dependent at a specially equipped medical center where the dependent receives medical care. See Psychoanalysis, next, and Transportation, later.

Psychoanalysis

You can include in medical expenses payments for psychoanalysis. However, you cannot include payments for psychoanalysis that is part of required training to be a psychoanalyst.

Psychologist

You can include in medical expenses amounts you pay to a psychologist for medical care.

Special Education

You can include in medical expenses fees you pay on a doctor's recommendation for a child's tutoring by a teacher who is specially trained and qualified to work with

DRAFT

children who have learning disabilities caused by mental or physical impairments, including nervous system disorders.

You can include in medical expenses the cost (tuition, meals, and lodging) of attending a school that furnishes special education to help a child to overcome learning disabilities. A doctor must recommend that the child attend the school. Overcoming the learning disabilities must be a principal reason for attending the school, and any ordinary education received must be incidental to the special education provided. Special education includes:

Teaching Braille to a visually impaired person,

Teaching lip reading to a hearing disabled person, or

Giving remedial language training to correct a condition caused by a birth defect.

You cannot include in medical expenses the cost of sending a problem child to a school where the course of study and the disciplinary methods have a beneficial effect on the child's attitude if the availability of medical care in the school is not a principal reason for sending the student there.

Sterilization

You can include in medical expenses the cost of a legal sterilization (a legally performed operation to make a person unable to have children). Also see Vasectomy, later.

Stop-Smoking Programs

You can include in medical expenses amounts you pay for a program to stop smoking. However, you cannot include in medical expenses amounts you pay for drugs that do not require a prescription, such as nicotine gum or patches, that are designed to help stop smoking.

Surgery

See Operations, earlier.

Telephone

You can include in medical expenses the cost of special telephone equipment that lets a person with a hearing or speech disability communicate over a regular telephone. This includes teletypewriter (TTY) and telecommunications device for the deaf (TDD) equipment. You can also include the cost of repairing the equipment.

Television

You can include in medical expenses the cost of equipment that displays the audio part of television programs as subtitles for persons with a hearing disability. This may be the cost of an adapter that attaches to a regular set. It also may be the part of the cost of a specially equipped television that exceeds the cost of the same model regular television set.

Therapy

DRAFT

You can include in medical expenses amounts you pay for therapy received as medical treatment.

Transplants

You can include in medical expenses amounts paid for medical care you receive because you are a donor or a possible donor of a kidney or other organ. This includes transportation.

You can include any expenses you pay for the medical care of a donor in connection with the donating of an organ. This includes transportation.

Transportation

You can include in medical expenses amounts paid for transportation primarily for, and essential to, medical care.

You can include:

Bus, taxi, train, or plane fares or ambulance service,

Transportation expenses of a parent who must go with a child who needs medical care,

Transportation expenses of a nurse or other person who can give injections, medications, or other treatment required by a patient who is traveling to get medical care and is unable to travel alone, and

Transportation expenses for regular visits to see a mentally ill dependent, if these visits are recommended as a part of treatment.

Car expenses. You can include out-of-pocket expenses, such as the cost of gas and oil, when you use a car for medical reasons. You cannot include depreciation, insurance, general repair, or maintenance expenses.

If you do not want to use your actual expenses for 2012, you can use the standard medical mileage rate of 23 cents a mile.

You can also include parking fees and tolls. You can add these fees and tolls to your medical expenses whether you use actual expenses or the standard mileage rate.

Example. In 2012, Bill Jones drove 2,800 miles for medical reasons. He spent $500 for gas, $30 for oil, and $100 for tolls and parking. He wants to figure the amount he can include in medical expenses both ways to see which gives him the greater deduction.

He figures the actual expenses first. He adds the $500 for gas, the $30 for oil, and the $100 for tolls and parking for a total of $630.

He then figures the standard mileage amount. He multiplies 2,800 miles by 23 cents a mile for a total of $644. He then adds the $100 tolls and parking for a total of $744.

Bill includes the $744 of car expenses with his other medical expenses for the year because the $744 is more than the $630 he figured using actual expenses.

DRAFT

Transportation expenses you cannot include. You cannot include in medical expenses the cost of transportation in the following situations.

Going to and from work, even if your condition requires an unusual means of transportation.

Travel for purely personal reasons to another city for an operation or other medical care.

Travel that is merely for the general improvement of one's health.

The costs of operating a specially equipped car for other than medical reasons.

Trips

You can include in medical expenses amounts you pay for transportation to another city if the trip is primarily for, and essential to, receiving medical services. You may be able to include up to $50 for each night for each person. You can include lodging for a person traveling with the person receiving the medical care. For example, if a parent is traveling with a sick child, up to $100 per night can be included as a medical expense for lodging. Meals are not included. See Lodging, earlier.

You cannot include in medical expenses a trip or vacation taken merely for a change in environment, improvement of morale, or general improvement of health, even if the trip is made on the advice of a doctor. However, see Medical Conferences, earlier.

Tuition

Under special circumstances, you can include charges for tuition in medical expenses. See Special Education, earlier.

You can include charges for a health plan included in a lump-sum tuition fee if the charges are separately stated or can easily be obtained from the school.

Vasectomy

You can include in medical expenses the amount you pay for a vasectomy.

Vision Correction Surgery

See Eye Surgery, earlier.

Weight-Loss Program

You can include in medical expenses amounts you pay to lose weight if it is a treatment for a specific disease diagnosed by a physician (such as obesity, hypertension, or heart disease). This includes fees you pay for membership in a weight reduction group as well as fees for attendance at periodic meetings. You cannot include membership dues in a gym, health club, or spa as medical expenses, but you can include separate fees charged there for weight loss activities.

You cannot include the cost of diet food or beverages in medical expenses because the diet food and beverages substitute for what is normally consumed to satisfy nutritional needs. You can include the cost of special food in medical expenses only if:

DRAFT

1. The food does not satisfy normal nutritional needs,
2. The food alleviates or treats an illness, and
3. The need for the food is substantiated by a physician.

The amount you can include in medical expenses is limited to the amount by which the cost of the special food exceeds the cost of a normal diet. See also Weight-Loss Program under What Expenses Are Not Includible, later.

Wheelchair

You can include in medical expenses amounts you pay for an autoette or a wheelchair used mainly for the relief of sickness or disability, and not just to provide transportation to and from work. The cost of operating and maintaining the autoette or wheelchair is also a medical expense.

Wig

You can include in medical expenses the cost of a wig purchased upon the advice of a physician for the mental health of a patient who has lost all of his or her hair from disease.

X-ray

You can include in medical expenses amounts you pay for X-rays for medical reasons.

What Expenses Are Not Includible?

Following is a list of some items that you cannot include in figuring your medical expense deduction. The items are listed in alphabetical order.

Baby Sitting, Childcare, and Nursing Services for a Normal, Healthy Baby

You cannot include in medical expenses amounts you pay for the care of children, even if the expenses enable you, your spouse, or your dependent to get medical or dental treatment. Also, any expense allowed as a childcare credit cannot be treated as an expense paid for medical care.

Controlled Substances

You cannot include in medical expenses amounts you pay for controlled substances (such as marijuana, laetrile, etc.). Such substances may be legalized by state law. However, they are in violation of federal law and cannot be included in medical expenses.

DRAFT

Cosmetic Surgery

Generally, you cannot include in medical expenses the amount you pay for unnecessary cosmetic surgery. This includes any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. You generally cannot include in medical expenses the amount you pay for procedures such as face lifts, hair transplants, hair removal (electrolysis), and liposuction.

You can include in medical expenses the amount you pay for cosmetic surgery if it is necessary to improve a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease.

Example. An individual undergoes surgery that removes a breast as part of treatment for cancer. She pays a surgeon to reconstruct the breast. The surgery to reconstruct the breast corrects a deformity directly related to the disease. The cost of the surgery is includible in her medical expenses.

Dancing Lessons

You cannot include in medical expenses the cost of dancing lessons, swimming lessons, etc., even if they are recommended by a doctor, if they are only for the improvement of general health.

Diaper Service

You cannot include in medical expenses the amount you pay for diapers or diaper services, unless they are needed to relieve the effects of a particular disease.

Electrolysis or Hair Removal

See Cosmetic Surgery, earlier.

Flexible Spending Account

You cannot include in medical expenses amounts for which you are fully reimbursed by your flexible spending account if you contribute a part of your income on a pre-tax basis to pay for the qualified benefit.

Funeral Expenses

You cannot include in medical expenses amounts you pay for funerals.

Future Medical Care

Generally, you cannot include in medical expenses current payments for medical care (including medical insurance) to be provided substantially beyond the end of the year. This rule does not apply in situations where the future care is purchased in connection with obtaining lifetime care or long-term care of the type described at Lifetime Care--Advance Payments or Long-Term Care, earlier under What Medical Expenses Are Includible.

Hair Transplant

DRAFT

See Cosmetic Surgery, earlier.

Health Club Dues

You cannot include in medical expenses health club dues or amounts paid to improve one's general health or to relieve physical or mental discomfort not related to a particular medical condition.

You cannot include in medical expenses the cost of membership in any club organized for business, pleasure, recreation, or other social purpose.

Health Coverage Tax Credit

You cannot include in medical expenses amounts you pay for health insurance that you use in figuring your health coverage tax credit. For more information, see Health Coverage Tax Credit, later.

Health Savings Accounts

You cannot include in medical expenses any payment or distribution for medical expenses out of a health savings account. Contributions to health savings accounts are deducted separately. See Publication 969.

Household Help

You cannot include in medical expenses the cost of household help, even if such help is recommended by a doctor. This is a personal expense that is not deductible. However, you may be able to include certain expenses paid to a person providing nursing-type services. For more information, see Nursing Services, earlier under What Medical Expenses Are Includible. Also, certain maintenance or personal care services provided for qualified long-term care can be included in medical expenses. For more information, see Long-Term Care, earlier under What Medical Expenses Are Includible.

Illegal Operations and Treatments

You cannot include in medical expenses amounts you pay for illegal operations, treatments, or controlled substances whether rendered or prescribed by licensed or unlicensed practitioners.

Insurance Premiums

See Insurance Premiums under What Medical Expenses Are Includible, earlier.

DRAFT

Maternity Clothes

You cannot include in medical expenses amounts you pay for maternity clothes.

Medical Savings Account (MSA)

You cannot include in medical expenses amounts you contribute to an Archer MSA. You cannot include expenses you pay for with a tax-free distribution from your Archer MSA. You also cannot use other funds equal to the amount of the distribution and include the expenses. For more information on Archer MSAs, see Publication 969.

Medicines and Drugs From Other Countries

In general, you cannot include in your medical expenses the cost of a prescribed drug brought in (or ordered shipped) from another country. You can only include the cost of a drug that was imported legally. For example, you can include the cost of a prescribed drug the Food and Drug Administration announces can be legally imported by individuals.

You can include the cost of a prescribed drug you purchase and consume in another country if the drug is legal in both the other country and the United States.

Nonprescription Drugs and Medicines

Except for insulin, you cannot include in medical expenses amounts you pay for a drug that is not prescribed.

Example. Your doctor recommends that you take aspirin. Because aspirin is a drug that does not require a physician's prescription, you cannot include its cost in your medical expenses.

Nutritional Supplements

You cannot include in medical expenses the cost of nutritional supplements, vitamins, herbal supplements, "natural medicines," etc. unless they are recommended by a medical practitioner as treatment for a specific medical condition diagnosed by a physician. Otherwise, these items are taken to maintain your ordinary good health, and are not for medical care.

Personal Use Items

You cannot include in medical expenses the cost of an item ordinarily used for personal, living, or family purposes unless it is used primarily to prevent or alleviate a physical or mental defect or illness. For example, the cost of a toothbrush and toothpaste is a non-deductible personal expense.

In order to accommodate an individual with a physical defect, you may have to purchase an item ordinarily used as a personal, living, or family item in a special form. You can include the excess of the cost of the item in a special form over the cost of the item in normal form as a medical expense. (See Braille Books and Magazines under What Medical Expenses Are Includible, earlier.)

Swimming Lessons

See Dancing Lessons, earlier.

DRAFT

Teeth Whitening

You cannot include in medical expenses amounts paid to whiten teeth. See Cosmetic Surgery, earlier.

Veterinary Fees

You generally cannot include veterinary fees in your medical expenses, but see Guide Dog or Other Service Animal under What Medical Expenses Are Includible, earlier.

Weight-Loss Program

You cannot include in medical expenses the cost of a weight-loss program if the purpose of the weight loss is the improvement of appearance, general health, or sense of well-being. You cannot include amounts you pay to lose weight unless the weight loss is a treatment for a specific disease diagnosed by a physician (such as obesity, hypertension, or heart disease). If the weight-loss treatment is not for a specific disease diagnosed by a physician, you cannot include either the fees you pay for membership in a weight reduction group or fees for attendance at periodic meetings. Also, you cannot include membership dues in a gym, health club, or spa.

You cannot include the cost of diet food or beverages in medical expenses because the diet food and beverages substitute for what is normally consumed to satisfy nutritional needs.

See Weight-Loss Program under What Medical Expenses Are Includible, earlier.

How Do You Treat Reimbursements?

You can include in medical expenses only those amounts paid during the tax year for which you received no insurance or other reimbursement.

Insurance Reimbursement

You must reduce your total medical expenses for the year by all reimbursements for medical expenses that you receive from insurance or other sources during the year. This includes payments from Medicare.

Even if a policy provides reimbursement only for certain specific medical expenses, you must use amounts you receive from that policy to reduce your total medical

DRAFT

expenses, including those it does not provide reimbursement for.

Example. You have insurance policies that cover your hospital and doctors' bills but not your nursing bills. The insurance you receive for the hospital and doctors' bills is more than their charges. In figuring your medical deduction, you must reduce the total amount you spent for medical care by the total amount of insurance you received, even if the policies do not cover some of your medical expenses.

Health reimbursement arrangement (HRA). A health reimbursement arrangement is an employer-funded plan that reimburses employees for medical care expenses and allows unused amounts to be carried forward. An HRA is funded solely by the employer and the reimbursements for medical expenses, up to a maximum dollar amount for a coverage period, are not included in your income.

Other reimbursements. Generally, you do not reduce medical expenses by payments you receive for:

Permanent loss or loss of use of a member or function of the body (loss of limb, sight, hearing, etc.) or disfigurement to the extent the payment is based on the nature of the injury without regard to the amount of time lost from work, or

Loss of earnings.

You must, however, reduce your medical expenses by any part of these payments that is designated for medical costs. See How Do You Figure and Report the Deduction on Your Tax Return, later.

For how to treat damages received for personal injury or sickness, see Damages for Personal Injuries, later.

What If Your Insurance Reimbursement Is More Than Your Medical Expenses?

If you are reimbursed more than your medical expenses, you may have to include the excess in income. You may want to use Figure 1 to help you decide if any of your reimbursement is taxable.

Figure 1. Is Your Excess Medical Reimbursement Taxable?

Start

This is the start of the flowchart.

Decision (1)

Was any part of your premiums paid by your employer?

If Yes continue to Decision (2)

If No continue to Process (a)

Decision (2)

Were your employer's contributions to your premiums included in your income?

DRAFT

If Yes continue to Process (a)

If No continue to Decision (3)

Decision (3)

Did you pay any part of the premiums?

If Yes continue to Process (c)

If No continue to Process (b)

Process (a)

NONE of the excess reimbursement is taxable.

Continue to End

Process (b)

ALL of the excess reimbursement is taxable.

Continue to End

Process (c)

PART of the excess reimbursement is taxable. *

* See Premiums paid by you and your employer.

Continue to End

End

This is the end of the flowchart.

Premiums paid by you. If you pay either the entire premium for your medical insurance or all the costs of a plan similar to medical insurance and your insurance payments or other reimbursements are more than your total medical expenses for the year, you have excess reimbursement. Generally, you do not include the excess reimbursement in your gross income. However, gross income does include total payments in excess of $310 a day ($113,460 for 2012) for qualified long-term care services.

Premiums paid by you and your employer. If both you and your employer contribute to your medical insurance plan and your employer's contributions are not included in your gross income, you must include in your gross income the part of your excess reimbursement that is from your employer's contribution.

If you are not covered by more than one policy, you can figure the amount of the excess reimbursement you must include in gross income using Worksheet B. If you are covered under more than one policy, see More than one policy, later.

DRAFT

Worksheet B. Excess Reimbursement Includible in Income When You Have Only One Policy

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet to figure the amount of excess reimbursement you must include in income when both you and your employer contributed to your medical insurance and your employer's contributions are not included in your gross income.

1. Enter the amount contributed to your medical insurance for the year by your employer. ----

2. Enter the total annual cost of the policy. ----

3. Divide line 1 by line 2 ----

4. Enter the amount of excess reimbursement. ----

5. Multiply line 3 by line 4. This is the amount of the excess reimbursement you must include as other income on Form 1040, line 21. ----

Example. You are covered by your employer's medical insurance policy. The annual premium is $2,000. Your employer pays $600 of that amount, which is not included in your gross income, and the balance of $1,400 is taken out of your wages. You receive $500 excess reimbursement for your medical expenses. The part of the excess reimbursement you receive under the policy that is from your employer's contributions is figured as follows.

Worksheet B. Excess Reimbursement Includible in Income When You Have Only One Policy--Illustrated

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet to figure the amount of excess reimbursement you must include in income when both you and your employer contributed to your medical insurance and your employer's contributions are not included in your gross income.

1. Enter the amount contributed to your medical insurance for the year by your employer. 600

2. Enter the total annual cost of the policy. 2,000

3. Divide line 1 by line 2 .30

4. Enter the amount of excess reimbursement. 500

5. Multiply line 3 by line 4. This is the amount of the excess reimbursement you must include as other income on Form 1040, line 21. 150

You must include in your gross income 30% (.30) of $500, or $150, of the excess reimbursement you received for medical expenses under the policy.

Premiums paid by your employer. If your employer or your former employer pays the total cost of your medical insurance plan and your employer's contributions are not included in your income, you must report all of your excess reimbursement as other income.

More than one policy. If you are covered under more than one policy, the cost of at least one of which is paid by both you and your employer, you must first divide the medical expenses

DRAFT

among the policies to figure the excess reimbursement from each policy. Then divide the policy costs to figure the part of any excess reimbursement that is from your employer's contribution. Any excess reimbursement that is due to your employer's contributions is includible in your income.

You can figure the part of the excess reimbursement that is from your employer's contribution by using Worksheet C. Use Worksheet C only if both you and your employer paid part of the cost of at least one policy. If you had more than one policy, but you did not share in the cost of at least one policy, do not use Worksheet C.

Worksheet C. Excess Reimbursement Includible in Income When You Have More Than One Policy

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet to figure the amount of excess reimbursement you must include as income on your tax return when a) you are reimbursed under two or more health insurance policies, b) at least one of which is paid for by both you and your employer, and c) your employer's contributions are not included in your gross income. If you and your employer did not share in the cost of at least one policy, do not use this worksheet.

1. Enter the reimbursement from your employer's policy. ----

2. Enter the reimbursement from your own policy. ----

3. Add lines 1 and 2 ----

4. Divide line 1 by line 3. ----

5. Enter the total medical expenses you paid during the year. If this amount is at least as much as the amount on line 3, stop here because there is no excess reimbursement. ----

6. Multiply line 4 by line 5 ----

7. Subtract line 6 from line 1 ----

8. Enter employer's contribution to the annual cost of the employer's policy. ----

DRAFT

9. Enter total annual cost of the employer's policy. ----

10. Divide line 8 by line 9. This is the percentage of your total excess reimbursement you must report as other income. ----

11. Multiply line 7 by line 10. This is the amount of your total excess reimbursement you must report as other income on Form 1040, line 21. ----

Example. You are covered by your employer's health insurance policy. The annual premium is $1,200. Your employer pays $300 and the balance of $900 is deducted from your wages. You also paid the entire premium ($250) for a personal health insurance policy.

During the year, you paid medical expenses of $3,600. In the same year, you were reimbursed $2,400 under your employer's policy and $1,600 under your own personal policy. The amount you must report as other income is figured as follows.

Worksheet C. Excess Reimbursement Includible in Income When You Have More Than One Policy--Illustrated

Instructions: Use this worksheet to figure the amount of excess reimbursement you must include as income on your tax return when a) you are reimbursed under two or more health insurance policies, b) at least one of which is paid for by both you and your employer, and c) your employer's contributions are not included in your gross income. If you and your employer did not share in the cost of at least one policy, do not use this worksheet.

1. Enter the reimbursement from your employer's policy. 2,400

2. Enter the reimbursement from your own policy. 1,600

3. Add lines 1 and 2 4,000

4. Divide line 1 by line 3 .60

5. Enter the total medical expenses you paid during the year. If this amount is at least as much as the amount on line 3, stop here because there is no excess reimbursement. 3,600

6. Multiply line 4 by line 5 2,160

7. Subtract line 6 from line 1 240

8. Enter employer's contribution to the annual cost of the employer's policy. 300

9. Enter total annual cost of the employer's policy. 1,200

10. Divide line 8 by line 9. This is the percentage of your total excess reimbursement you must report as other income. .25

11. Multiply line 7 by line 10. This is the amount of your total excess reimbursement you must report as other income on Form 1040, line 21. 60

What If You Receive Insurance Reimbursement in a Later Year?

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If you are reimbursed in a later year for medical expenses you deducted in an earlier year, you generally must report the reimbursement as income up to the amount you previously deducted as medical expenses.

However, you do not report as income the amount of reimbursement you received up to the amount of your medical deductions that did not reduce your tax for the earlier year.

For more information about the recovery of an amount that you claimed as an itemized deduction in an earlier year, see Recoveries in Publication 525, Taxable and Nontaxable Income.

DRAFT

What If You Are Reimbursed for Medical Expenses You Did Not Deduct?

If you did not deduct a medical expense in the year you paid it because your medical expenses were not more than 7.5% of your AGI, or because you did not itemize deductions, do not include the reimbursement, up to the amount of the expense, in income. However, if the reimbursement is more than the expense, see What If Your Insurance Reimbursement Is More Than Your Medical Expenses, earlier.

Example. Last year, you had $500 of medical expenses. You cannot deduct the $500 because it is less than 7.5% of your AGI. If, in a later year, you are reimbursed for any of the $500 of medical expenses, you do not include that amount in your gross income.

How Do You Figure and Report the Deduction on Your Tax Return?

Once you have determined which medical expenses you can include, figure and report the deduction on your tax return.

What Tax Form Do You Use?

You report your medical expense deduction on Schedule A, Form 1040. You cannot claim medical expenses on Form 1040A, U. S. Individual Income Tax Return, or Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents. An example of a filled-in medical and dental expense part of Schedule A is shown.

How Do You Figure Your Deduction?

To figure your medical and dental expense deduction, complete lines 1 through 4 of Schedule A, Form 1040, as follows:

Line 1. Enter the amount you paid for medical expenses after reducing the amount by payments you received from insurance and other sources.

Line 2. Enter your AGI from Form 1040, line 38.

Line 3. Multiply the amount on line 2 (AGI) by 7.5% (.075) and enter the result.

Line 4. If line 3 is more than line 1, enter 0. Otherwise, subtract the amount on line 3 from the amount on line 1. This is your deduction for medical and dental expenses.

Example. Bill and Helen Jones belong to a group medical plan and part of their insurance is paid by Bill's employer. They file a joint return, and their AGI is $33,004. The following list shows the net amounts, after insurance reimbursements, that Bill and Helen paid this year for medical expenses.

1. For themselves, Bill and Helen paid $375 for prescription medicines and drugs, $337 for hospital bills, $439 for doctor bills, $295 for hospitalization insurance, $380 for medical and surgical insurance, and $33 for transportation for medical treatment, which totals $1,859.

2. For Grace Taylor (Helen's dependent mother), they paid $300 for doctors, $300 for insulin, and $175 for eyeglasses, which totals $775.

DRAFT

3. For Betty Jones (Bill's dependent sister), they paid $450 for doctors and $350 for prescription medicines and drugs, which totals $800.

Bill and Helen add all their medical and dental expenses together ($1,859 plus $775 plus $800 equals $3,434). They figure their deduction on the medical and dental expenses part of Schedule A, Form 1040.

Items you should keep in your personal records: Recordkeeping. For each medical expense, you should keep a record of:

The name and address of each person you paid, and

The amount and date of each payment.

You can keep a record like the following.

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Record of medical expenses

(Blank Field); Name of person paid; Address of person paid; Amount paid; Date paid; Transportation (mileage, taxi, etc.)

1.; (Blank Field); (Blank Field); (Blank Field); (Blank Field); (Blank Field)

2.; (Blank Field); (Blank Field); (Blank Field); (Blank Field); (Blank Field)

3.; (Blank Field); (Blank Field); (Blank Field); (Blank Field); (Blank Field)

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8.; (Blank Field); (Blank Field); (Blank Field); (Blank Field); (Blank Field)

9.; (Blank Field); (Blank Field); (Blank Field); (Blank Field); (Blank Field)

You should also keep a statement or itemized invoice showing the following.

What medical care was received.

Who received the care.

The nature and purpose of any other medical expenses.

Who the other medical expenses were for.

The amount of the other medical expenses and the date of payment.

Do not send these records with your return.

Sale of Medical Equipment or Property

If you deduct the cost of medical equipment or property in one year and sell it in a later year, you may have a taxable gain. The taxable gain is the amount of the selling price that is more than the adjusted basis of the equipment or property.

The adjusted basis is the portion of the cost of the equipment or property that you could not deduct because of the 7.5% limit used to compute the medical deduction. Use Worksheet D, later, to figure the adjusted basis of the equipment or property.

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Worksheet D. Adjusted Basis of Medical Equipment or Property Sold

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet if you deducted the cost of medical equipment or property in one year and sold the equipment or property in a later year. This worksheet will give you the adjusted basis of the equipment or property you sold.

1. Enter the cost of the equipment or property. ----

2. Enter your total includible medical expenses for the year you included the cost in your medical expenses. ----

3. Divide line 1 by line 2 ----

4. Enter 7.5% of your AGI for the year the cost was included in your medical expenses ($15,000 multiplied by .075). ----

5. Multiply line 3 by line 4. If your allowable itemized deductions for the year you purchased the equipment or property were not more than your AGI for that year, stop here. This is the adjusted basis of the equipment or property. If your allowable itemized deductions for the year you purchased the equipment or property were more than your AGI for that year, complete lines 6 through 11. ----

6. Subtract line 5 from line 1 ----

7. Enter your total allowable itemized deductions for the year the cost was included in your medical expenses. ----

8. Divide line 6 by line 7 ----

9. Enter your AGI for the year the cost was included in your medical expenses. ----

10. Subtract line 9 from line 7 ----

11. Multiply line 8 by line 10. ----

12. Add line 5 to line 11. If your allowable itemized deductions for the year you purchased the equipment or property were more than your AGI for that year, this is the adjusted basis of the equipment or property. ----

Next, use Worksheet E to figure the total gain or loss on the sale of the medical equipment or property.

Worksheet E. Gain or Loss On the Sale of Medical Equipment or Property

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use the following worksheet to figure total gain or loss on the sale of medical equipment or property that you deducted in an earlier year.

1. Enter the amount that the medical equipment or property sold for. ----

2. Enter your selling expenses ----

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3. Subtract line 2 from line 1 ----

4. Enter the adjusted basis of the equipment or property from Worksheet D, line 5, or line 12, if applicable. ----

5. Subtract line 4 from line 3. This is the total gain or loss from the sale of the medical equipment or property. ----

If you have a loss, it is not deductible. If you have a gain, it is includible in your income. The part of the gain that is a recovery of an amount you previously deducted is taxable as ordinary income. Enter it on Form 1040, line 21. Any part of the gain that is more than the recovery of an amount you previously deducted is taxable as a capital gain. Enter it on Form 8949, Sales and Other Dispositions of Capital Assets, and Schedule D (Form 1040), Capital Gains and Losses.

For more information about the recovery of an amount that you claimed as an itemized deduction in an earlier year, see Recoveries in Publication 525.

Example. You have a heart condition and difficulty breathing. Your doctor prescribed oxygen equipment to help you breathe. Last year, you bought the oxygen equipment for $3,000. You itemized deductions and included it in your medical expense deduction.

Last year you also paid $10,750 for deductible medical services and $6,400 for other itemized deductions. Your AGI was $15,000.

Taking into account the 7.5% limit on medical expenses, your allowable itemized deductions totaled $19,025, figured as follows:

Oxygen equipment 3,000

Medical services 10,750

Total medical expenses 13,750

7.5% of AGI (.075 multiplied by $15,000) minus 1,125

Allowable medical expense deduction 12,625

Other itemized deductions 6,400

Allowable itemized deductions 19,025

DRAFT

You figure your adjusted basis as shown on the filled-in Worksheet D.

Worksheet D. Adjusted Basis of Medical Equipment or Property Sold--Illustrated

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use this worksheet if you deducted the cost of medical equipment or property in one year and sold the equipment or property in a later year. This worksheet will give you the adjusted basis of the equipment or property you sold.

1. Enter the cost of the equipment or property. 3,000

2. Enter your total includible medical expenses for the year you included the cost in your medical expenses. 13,750

3. Divide line 1 by line 2 .218

4. Enter 7.5% of your AGI for the year the cost was included in your medical expenses ($15,000 multiplied by .075). 1,125

5. Multiply line 3 by line 4. If your allowable itemized deductions for the year you purchased the equipment or property were not more than your AGI for that year, stop here. This is the adjusted basis of the equipment or property. If your allowable itemized deductions for the year you purchased the equipment or property were more than your AGI for that year, complete lines 6 through 11. 245

6. Subtract line 5 from line 1 2,755

7. Enter your total allowable itemized deductions for the year the cost was included in your medical expenses. 19,025

8. Divide line 6 by line 7 .145

9. Enter your AGI for the year the cost was included in your medical expenses. 15,000

10. Subtract line 9 from line 7 4,025

11. Multiply line 8 by line 10. 584

12. Add line 5 to line 11. If your allowable itemized deductions for the year you purchased the equipment or property were more than your AGI for that year, this is the adjusted basis of the equipment or property. 829

This year you sold the oxygen equipment for $2,025 and you had selling expenses of $25. You must report on this year's tax return part of the $2,000 as ordinary income. To compute the part of the sales price that is taxable, you must determine the gain by subtracting the total adjusted basis from the selling price.

Worksheet E. Gain or Loss On the Sale of Medical Equipment or Property--Illustrated

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use the following worksheet to figure gain or loss on the sale of medical equipment or property that you deducted in an earlier year.

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1. Enter the amount that the medical equipment or property sold for. 2,025

2. Enter your selling expenses 25

3. Subtract line 2 from line 1 2,000

4. Enter the adjusted basis of the equipment or property from Worksheet D, line 5, or line 12, if applicable. 829

5. Subtract line 4 from line 3. This is the total gain or loss from the sale of the medical equipment or property. 1,171

Damages for Personal Injuries

If you receive an amount in settlement of a personal injury suit, part of that award may be for medical expenses that you deducted in an earlier year. If it is, you must include that part in your income in the year you receive it to the extent it reduced your taxable income in the earlier year. See What If You Receive Insurance Reimbursement in a Later Year, discussed earlier under How Do You Treat Reimbursements.

Example. You sued this year for injuries you suffered in an accident last year. You sought $10,000 for your injuries and did not itemize your damages. Last year, you paid $500 for medical expenses for your injuries. You deducted those expenses on last year's tax return. This year you settled your lawsuit for $2,000. Your settlement did not itemize or allocate the damages. The $2,000 is first presumed to be for the medical expenses that you deducted. The $500 is includible in your income this year because you deducted the entire $500 as a medical expense deduction last year.

Future medical expenses. If you receive an amount in settlement of a damage suit for personal injuries, part of that award may be for future medical expenses. If it is, you

DRAFT

7634 must reduce any future medical expenses for these injuries until the amount you received has
7635 been completely used.

7636 Example. You were injured in an accident. You sued and sought a judgment of $50,000 for
7637 your injuries. You settled the suit for $45,000. The settlement provided that $10,000 of the
7638 $45,000 was for future medical expenses for your injuries. You cannot include the first $10,000
7639 that you pay for medical expenses for those injuries.

7640 Workers' compensation. If you received workers' compensation and you deducted medical
7641 expenses related to that injury, you must include the workers' compensation in income up to
7642 the amount you deducted. If you received workers' compensation, but did not deduct medical
7643 expenses related to that injury, do not include the workers' compensation in your income.

7644 Impairment-Related Work Expenses

7645 If you are a person with disabilities, you can take a business deduction for expenses that are
7646 necessary for you to be able to work. If you take a business deduction for these impairment-
7647 related work expenses, they are not subject to the 7.5% limit that applies to medical expenses.

7648 You have a disability if you have:

7649 A physical or mental disability (for example, blindness or deafness) that functionally limits your
7650 being employed, or

7651 A physical or mental impairment (for example, a sight or hearing impairment) that substantially
7652 limits one or more of your major life activities, such as performing manual tasks, walking,
7653 speaking, breathing, learning, or working.

7654 Impairment-related expenses defined. Impairment-related expenses are those ordinary and
7655 necessary business expenses that are:

7656 Necessary for you to do your work satisfactorily,

7657 For goods and services not required or used, other than incidentally, in your personal activities,
7658 and

7659 Not specifically covered under other income tax laws.

7660 Where to report. If you are self-employed, deduct the business expenses on the appropriate
7661 form (Schedule C, C-EZ, E, or F) used to report your business income and expenses.

7662 If you are an employee, complete Form 2106, Employee Business Expenses, or Form 2106-EZ,
7663 Unreimbursed Employee Business Expenses. Enter on Schedule A (Form 1040), line 28, that
7664 part of the amount on Form 2106, line 10, or Form 2106-EZ, line 6, that is related to your
7665 impairment. Enter the amount that is unrelated to your impairment on Schedule A (Form
7666 1040), line 21. Your impairment-related work expenses are not subject to the 2%-of-adjusted-
7667 gross-income limit that applies to other employee business expenses.

7668 Example. You are blind. You must use a reader to do your work. You use the reader both
7669 during your regular working hours at your place of work and outside your regular working hours

DRAFT

away from your place of work. The reader's services are only for your work. You can deduct your expenses for the reader as business expenses.

Health Insurance Costs for Self-Employed Persons

If you were self-employed and had a net profit for the year, you may be able to deduct, as an adjustment to income, amounts paid for medical and qualified long-term care insurance on behalf of yourself, your spouse, your dependents, and your children who were under age 27 at the end of 2012. For this purpose, you were self-employed if you were a general partner (or a limited partner receiving guaranteed payments) or you received wages from an S corporation in which you were more than a 2% shareholder. The insurance plan must be established under your trade or business and the deduction cannot be more than your earned income from that trade or business.

You cannot deduct payments for medical insurance for any month in which you were eligible to participate in a health plan subsidized by your employer, your spouse's employer or an employer of your dependent or your child under age 27 at the end of 2012. You cannot deduct payments for a qualified long-term care insurance contract for any month in which you were eligible to participate in a long-term care insurance plan subsidized by your employer or your spouse's employer.

If you qualify to take the deduction, use the Self-Employed Health Insurance Deduction Worksheet in the Form 1040 instructions to figure the amount you can deduct. But if any of the following applies, do not use that worksheet.

You had more than one source of income subject to self-employment tax.

You file Form 2555, Foreign Earned Income, or Form 2555-EZ, Foreign Earned Income Exclusion.

You are using amounts paid for qualified long-term care insurance to figure the deduction.

If you cannot use the worksheet in the Form 1040 instructions, use the worksheet in Publication 535, Business Expenses, to figure your deduction.

If, during 2012, you were an eligible trade adjustment assistance (TAA) recipient, alternative TAA (ATAA) recipient, reemployment TAA (RTAA) recipient, or Pension Benefit Guaranty Corporation pension recipient, see the instructions for Form 8885 to figure the amount to enter on line 1 of the worksheet.

DRAFT

7701 When figuring the amount you can deduct for insurance premiums, do not include amounts
7702 paid for health insurance coverage with retirement plan distributions that were tax-free
7703 because you are a retired public safety officer.

7704 Where to report. You take this deduction on Form 1040, line 29. If you itemize your
7705 deductions and do not claim 100% of your self-employed health insurance costs on line 29,
7706 include any remaining premiums with all other medical expenses on Schedule A (Form 1040),
7707 subject to the 7.5% limit.

7708 Child under age 27. If the insurance policy covers your nondependent child who was under age
7709 27 at the end of 2012, you can claim the premiums for that coverage on Form 1040, line 29. If
7710 you cannot claim 100% of your self-employed health insurance costs on line 29, any excess
7711 amounts attributable to that child are not eligible to be claimed on Schedule A (Form 1040).

7712 Generally, family health insurance premiums do not increase if coverage for an additional child
7713 is added. If this is the situation, no allocation would be necessary. If the premiums did increase
7714 (such as where coverage was expanded from single to family to add the non-dependent child),
7715 you can allocate the amount on line 29 to the non-dependent child and any excess amounts not
7716 attributable to that child would be eligible to be claimed on Schedule A.

7717 Example 1. Naomi is self-employed in 2012 and has self-only coverage for health insurance.
7718 Her premium for that coverage was $5,000 for the year. She changes to family coverage only to
7719 add her 26-year-old nondependent child to the plan. Her health insurance premium increases
7720 to $10,000 for the year. After completing the Self-Employed Health Insurance Deduction
7721 Worksheet for Form 1040, line 29, she can only deduct $4,000 on line 29. The $4,000 is
7722 allocable to the nondependent child. On Schedule A, she can only claim the $5,000 allocable to
7723 her coverage. She cannot claim the $1,000 excess premiums allocable to the nondependent
7724 child.

7725 Example 2. The facts are the same as in Example 1, except that Naomi had family coverage
7726 when she added her 26-year-old nondependent child to the policy. There was no increase in
7727 the $10,000 premium. In this case, she could claim $4,000 on line 29 and $6,000 on Schedule
7728 A.

7729 More information. For more information, see Publication 535.

7730 COBRA Premium Assistance

7731 The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides that if you were
7732 covered under a group health plan and you would lose coverage because of a qualifying event,
7733 you should be allowed an opportunity to elect COBRA continuation health coverage under the
7734 plan. If there was no available election, your employer or the plan was subject to an excise tax.
7735 You can be required to pay the full premium for the COBRA continuation coverage.

7736 If you are an assistance eligible individual, you pay 35% of the premium otherwise payable for
7737 this coverage and are treated as having paid the full premium. You are an assistance eligible
7738 individual if:

DRAFT

You are a qualified beneficiary as a result of an involuntary termination that occurred during the period beginning on September 1, 2008, and ending on May 31, 2010, or had a reduction of hours during that period, which was followed by a termination of your employment that occurred after March 1, 2010, and before June 1, 2010,

You are eligible for COBRA continuation coverage related to the qualifying event occurring during the period beginning on September 1, 2008, and

You elect the coverage.

A qualified beneficiary is generally any individual who is covered under a group health plan on the day before the involuntary termination. This includes the covered employee, the employee's spouse, and the employee's dependent.

The premium assistance (the 65% reduction of the premium) applies to the first period of coverage beginning after February 16, 2009. The reduction applies until the earliest of:

1. The first date the assistance eligible individual becomes eligible for other group health plan coverage or Medicare coverage,

2. The date that is 15 months after the first day of the first month for which the reduced premium applies to the individual, or

3. The date the individual ceases to be eligible for COBRA continuation coverage.

The premium assistance is not included in your gross income. However, if your modified adjusted gross income (AGI) is more than $125,000 ($250,000 if married filing jointly) but not more than $145,000 ($290,000 if married filing jointly), your income tax for the year is increased by a percentage of the premium assistance. Use Worksheet F to figure the amount you must include as tax on your return. If your modified AGI is more than $145,000 ($290,000 if married filing jointly), your income tax for the tax year is increased by the total premium assistance. Include the increase in your income tax on Form 1040, line 60, or Form 1040NR, line 59. On the dotted line next to that line, enter the amount of the tax and identify it as "COBRA."

DRAFT

Worksheet F. Recapture of COBRA Premium Assistance for Higher Income Taxpayers

Items you may need to figure or a worksheet you may need to complete: Keep for Your Records

Instructions: Use the following worksheet to figure the taxable portion of your COBRA premium if your modified AGI (line 3 below) is more than $125,000 ($250,000 if married filing jointly) but less than $145,000 ($290,000 if married filing jointly).

1. Enter your AGI (Form 1040, line 38 or Form 1040NR, line 36) ----

2. Enter the total of any amounts from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15, and any exclusion of income from American Samoa and Puerto Rico ----

3. Modified AGI. Add lines 1 and 2 ----

4. Enter $125,000 ($250,000 if married filing jointly) ----

5. Subtract line 4 from line 3 ----

6. Enter $20,000 ($40,000 if married filing jointly) ----

7. Divide line 5 by line 6. Enter the result as a decimal (rounded to at least 3 places) ----

8. Enter the amount of the COBRA premium assistance * you received in 2012 ----

* Contact your former employer or health insurance plan to obtain the total premium assistance, if unknown.

9. Multiply line 8 by line 7. Enter result here and include it on Form 1040, line 60 or Form 1040NR, line 59. On the dotted line next to that line, enter the amount shown on line 9 and identify it as "COBRA." ----

You may elect to permanently waive the right to the premium assistance. You will not receive the premium assistance and you will not have to include the assistance in your income tax if your modified AGI is more than $125,000 ($250,000 if married filing jointly). To make this election, give a signed and dated notification (include a reference to "permanent waiver") to the person to whom premiums are payable.

You will not qualify for the health coverage tax credit (discussed next) for any month for which you receive premium assistance.

For more information see Notice 2009-27, available at www.irs.gov/irb/2009-16_irb/ar09.

Health Coverage Tax Credit

If you paid the premiums for qualified health insurance coverage, you may be able to claim the health coverage tax credit (HCTC). If you are eligible, you can get monthly HCTC (advance payments), a yearly HCTC, or a combination of these methods (see How To Take the Credit, later). The HCTC is 72.5% of the payments made in 2012.

More information. For a complete discussion of the HCTC, visit IRS.gov and enter "HCTC" in the search box. Also, see Form 8885.

Who Can Take This Credit?

DRAFT

You can take this credit for any month in which all of the following were true on the first day of the month.

1. You were an eligible:

a. Trade adjustment assistance (TAA) recipient,

b. Alternative TAA recipient,

c. Reemployment TAA recipient,

d. Pension Benefit Guaranty Corporation (PBGC) pension payee, or

e. You were a qualifying family member of an individual described in a, b, c, or d when he or she enrolled in Medicare, died, or got divorced. See Family members in certain life events (enrollment in Medicare, death, or divorce), later.

2. You paid the premium for qualified health insurance coverage for yourself or a qualifying family member. See Qualified Health Insurance, later.

3. You were not imprisoned under federal, state, or local authority.

4. You did not have other specified coverage. See Other Specified Coverage, later.

If you were an eligible individual described in 1a, 1b, 1c, or 1d, your state's workforce agency (unemployment office) or the PBGC will notify the HCTC Program that you may be eligible for the credit. When notified, the HCTC Program will mail you an HCTC Eligibility Kit. If you have not received the Eligibility Kit, you may not be an eligible individual and not qualify for the credit. If you believe you are eligible for the HCTC and have not received an Eligibility Kit, go to IRS.gov and enter "HCTC" in the search box for information on how to contact the HCTC Program.

Caution! It can take the state or PBGC time to notify the HCTC Program about the event. You should make the full premium payments to your health plan until you are enrolled in the HCTC Program. You may be able to claim the yearly HCTC for these premiums when you file your tax return.

DRAFT

7828 No credit if dependent of another taxpayer. You cannot take this credit if you can be claimed as
7829 a dependent on someone else's tax return.

7830 Qualifying Family Member

7831 You can include the premiums you pay for qualified health insurance for qualifying family
7832 members in figuring your credit. A qualifying family member is:

7833 Your spouse (but see Both spouses eligible below), or

7834 Anyone whom you can claim as a dependent on your tax return. (For children whose parents
7835 are divorced, see Children of divorced or separated parents, later.)

7836 However, anyone who has other specified coverage (defined later) is not a qualifying family
7837 member.

7838 Both spouses eligible. Your spouse is not treated as a qualifying family member if all of the
7839 following are true.

7840 You are married at the end of the year.

7841 You and your spouse are both eligible recipients during the year.

7842 You file separate tax returns.

7843 Married and living apart. For purposes of this credit, you are not considered married on the last
7844 day of the year if all of the following apply.

7845 You file a separate return.

7846 Your home is the home for more than half the year of a dependent under age 13 or a
7847 dependent who is physically or mentally not able to care for himself or herself.

7848 You pay more than half the cost of keeping up your home for the year.

7849 Your spouse does not live in your home for the last 6 months of the year.

7850 Legally separated. You are not considered married if you are legally separated from your
7851 spouse under a decree of divorce or separate maintenance.

7852 Children of divorced or separated parents. Under the rules for medical expenses, a child of
7853 divorced or separated parents can be treated as a dependent of both parents if certain
7854 requirements are met. See Qualifying Child under Whose Medical Expenses Can You Include,
7855 earlier. However, for purposes of the HCTC, only the custodial parent can treat the child as a
7856 qualifying family member, even if the other parent can claim the child as a dependent. The
7857 custodial parent is the parent having custody for the greater portion of the tax year.

7858 Family members in certain life events (enrollment in Medicare, death, or divorce). Qualifying
7859 family members (spouses and dependents) are considered recipients and are eligible to receive
7860 the HCTC in the event that the TAA, ATAA, RTAA recipient or PBGC payee enrolls in Medicare,
7861 dies, or gets divorced. Qualifying family members can receive the tax credit for up to 24
7862 months from the month of the event, or until January 1, 2014, whichever comes first. Eligible

DRAFT

7863 taxpayers who plan to claim this credit because of these life events must call the HCTC Program
7864 prior to filing Form 8885 to ensure the form is processed correctly. See State-qualified health
7865 insurance, later, for the phone number.

7866 Qualified Health Insurance

7867 The following health insurance qualifies for the credit.

7868 COBRA continuation coverage. (This is coverage that employers with 20 or more employees
7869 must offer to employees or former employees and their beneficiaries who have lost coverage
7870 because of certain events.) See the caution below.

7871 Coverage under a group health plan that is available through the employment of your spouse.
7872 (But see Other Specified Coverage, later.)

7873 Coverage under a non-group (individual) health insurance plan, if the first day of your coverage
7874 started at least 30 days before you left your job that qualified you for TAA, ATAA, RTAA, or
7875 PBGC benefits, or the date of Medicare enrollment, death of or divorce from the original TAA
7876 recipient or PBGC payee that provided you with extended eligibility as a qualified family
7877 member. Individual health insurance does not include any insurance connected with a group
7878 health plan of federal or state based health insurance coverage.

7879 Caution! COBRA continuation coverage allows individuals who had lost their jobs to receive a
7880 reduction in health insurance premiums. You do not qualify for the HCTC for any month that
7881 you received a reduction in premium.

7882 Voluntary Employee's Beneficiary Association (VEBA) A health plan purchased through a VEBA
7883 that was established through the bankruptcy of your former employer.

7884 State-qualified health insurance. Certain state qualified health insurance can qualify for a
7885 credit. To find out which plans are qualified for your state, you can:

7886 Visit IRS.gov, and type "hctc" in the search box, and then, click on HCTC: List of State-Qualified
7887 Health Plans, or

7888 You can call 1-866-628-4282 (tollfree) (or TTY/TDD 1-866-626-4282).

7889 Nonqualified Health Insurance

7890 The following health insurance does not qualify for the credit.

7891 1. Medicare supplemental (Medigap) insurance, Tricare supplemental insurance, or similar
7892 supplemental insurance to an employer-sponsored group health plan.

7893 2. Any insurance if substantially all of the coverage is:

7894 a. Coverage for on-site medical clinics,

7895

DRAFT

7897 b. Hospital indemnity or other fixed indemnity insurance,

7898 c. Accident or disability income insurance (or a combination of the two),

7899 d. Liability insurance,

7900 e. A supplement to liability insurance,

7901 f. Workers' compensation or similar insurance,

7902 g. Automobile medical payment insurance,

7903 h. Credit-only insurance,

7904 i. Limited scope dental or vision benefits,

7905 j. Benefits for long-term care, nursing home care, home health care, community-based care (or
7906 any combination), or

7907 k. Coverage for only a specified disease or illness.

7908 3. Coverage under a flexible spending or similar arrangement.

7909 Insurance that covers other individuals. If you have qualified health insurance that covers
7910 anyone besides yourself and your qualifying family member(s) (defined earlier), you may not be
7911 able to take into account all of your payments. You cannot treat an amount as paid for
7912 insurance for yourself and qualifying family members unless all of the following requirements
7913 are met.

7914 The charge for insurance for yourself and qualifying family members is either separately stated
7915 in the contract or furnished to you by the insurance company in a separate statement.

7916 The amount you paid for insurance for yourself and qualifying family members is not more than
7917 the charge that is stated in the contract or furnished by the insurance company.

7918 The amount stated in the contract or furnished by the insurance company is not unreasonably
7919 large in relation to the total charges under the contract.

7920 Eligible Coverage Month

7921 Eligibility for the credit is determined on a monthly basis. An eligible coverage month is any
7922 month in which, as of the first day of the month, you:

7923 1. Are an eligible recipient or a qualified family member in certain life events (defined earlier),

7924 2. Are covered by qualified health insurance (defined earlier) that you pay for,

7925 3. Do not have other specified coverage (defined later), and

7926 4. Are not imprisoned under federal, state, or local authority.

7927 If you file a joint return, only one spouse has to satisfy the requirements.

7928 COBRA premium assistance. An individual who receives COBRA premium assistance (discussed
7929 earlier) for a month is disqualified from receiving the HCTC for that month.

DRAFT

7930 Other Specified Coverage

7931 Even if you or your qualifying family member are otherwise eligible, you or your qualifying
7932 family member are not eligible for the credit for a month if, as of the first day of the month, you
7933 or your qualifying family member have other specified coverage. Other specified coverage is
7934 coverage under the following.

7935 1. Any insurance which constitutes medical care (unless substantially all of that insurance is for
7936 benefits listed earlier under (1) or (2) under Nonqualified Health Insurance) if at least 50% of
7937 the cost of the coverage is paid by an employer (or former employer) of you or your spouse.

7938 2. Any of the following government health programs:

7939 a. Medicare Part A, B, or C,

7940 b. Medicaid, or the Children's Health Insurance Program (CHIP),

7941 c. The Federal Employees Health Benefit Program (FEHBP), or

7942 d. Tricare, the medical and dental care program for members and certain former members of
7943 the uniformed services and their dependents.

7944 Benefits from the Veterans Administration. Entitlement to or receipt of benefits from the
7945 Veterans Administration is not other specified coverage.

7946 How To Take the Credit

7947 If you claim this credit, you cannot take the same expenses that you use to figure your HCTC
7948 into account in determining your:

7949 Medical and dental expenses on Schedule A (Form 1040), or

7950 Self-employed health insurance deduction.

7951 You cannot use payments you made with funds from the following accounts to figure the credit:

7952 Health Savings Accounts (HSAs), or

7953 Archer Medical Savings Accounts (MSAs).

7954 Yearly HCTC

7955 The HCTC is 72.5% for payments made in 2012. To claim the yearly HCTC, complete Form 8885,
7956 and attach it to your Form 1040, Form 1040NR, U. S. Nonresident Alien Income Tax Return;
7957 Form 1040-SS, U. S. Self-Employment Tax Return; or Form 1040-PR, Planilla para la Declaración
7958 de la Contribución Federal sobre al Trabajo por Cuenta Propia. You cannot claim the credit on
7959 Form

7960

DRAFT

1040A, Form 1040EZ, or Form 1040NR-EZ, U. S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

You may claim the yearly HCTC if you were an eligible recipient and:

Did not receive monthly HCTC (advanced payments), or

Received advanced payments and also made eligible payments directly to your health plan.

Required documents. You must attach to your tax return the documents listed in the Form 8885 instructions.

If you e-file, you must attach a copy of Form 8885 and the required documents to Form 8453, U. S. Individual Income Tax Transmittal for an IRS e-file Return. Mail Form 8453 and the attachments to the address shown in the Form 8453 instructions.

Refundable credit. The HCTC is refundable. You can claim the full credit even if you do not owe any taxes or earn any income. To get the credit, you must:

1. Qualify for the credit, and

2. File a tax return, even if you:

a. Do not owe any tax,

b. Did not earn enough money to file a return, or

c. Did not have income taxes withheld from your pay.

Monthly HCTC

Under monthly HCTC (advance payments), you only pay part of the premium for health insurance and the HCTC Program pays the rest of the premium. The part paid by the HCTC Program is your monthly HCTC.

You pay your part of the premium to the HCTC Program. The program adds the advance payment and pays the total premium to your health plan.

If you want to receive the monthly HCTC, you must fill out the registration form and send it and any supporting documents to the HCTC Program. Once you are enrolled in the HCTC Program, you will receive a monthly invoice stating the amount you must pay to the program and the due date.

If you receive a monthly HCTC, you will get Form 1099-H, Health Coverage Tax Credit (HCTC) Advance Payments. The form shows you the total of your advance payments and for which months payments were made (including months for which reimbursement credits were paid to you). You cannot claim the yearly HCTC for any month for which you received a monthly HCTC.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

DRAFT

Free help with your tax return. Free help in preparing your return is available nationwide from IRS-certified volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-moderate income, elderly, disabled, and limited English proficient taxpayers. The Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Most VITA and TCE sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. Some VITA and TCE sites provide taxpayers the opportunity to prepare their return with the assistance of an IRS-certified volunteer. To find the nearest VITA or TCE site, visit IRS.gov or call 1-800-906-9887 or 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, visit AARP's website at www.aarp.org/money/taxaide or call 1-888-227-7669.

For more information on these programs, go to IRS.gov and enter "VITA" in the search box.

An internet site or an email address: Internet. You can access the IRS website at IRS.gov 24 hours a day, 7 days a week to:

E-file your return. Find out about commercial tax preparation and e-file services available free to eligible taxpayers.

Check the status of your 2012 refund. Go to IRS.gov and click on Where's My Refund. Information about your return will generally be available within 24 hours after the IRS receives your e-filed return, or 4 weeks after you mail your paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2012 tax return handy so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.

Where's My Refund? has a new look this year! The tool will include a tracker that displays progress through three stages: (1) return received, (2) refund approved, and (3) refund sent. Where's My Refund? will provide an actual personalized refund date as soon as the IRS processes your tax return and approves your refund. So in a change from previous filing seasons, you won't get an estimated refund date right away. Where's My Refund? includes information for the most recent return filed in the current year and does not include information about amended returns.

You can obtain a free transcript online at IRS.gov by clicking on Order a Return or Account Transcript under "Tools." For a transcript by phone, call 1-800-908-9946 and follow the prompts in the recorded message. You will be prompted to provide your SSN or Individual Taxpayer Identification Number (ITIN), date of birth, street address and ZIP code.

DRAFT

Download forms, including talking tax forms, instructions, and publications.

Order IRS products.

Research your tax questions.

Search publications by topic or keyword.

Use the Internal Revenue Code, regulations, or other official guidance.

View Internal Revenue Bulletins (IRBs) published in the last few years.

Figure your withholding allowances using the IRS Withholding Calculator at www.irs.gov/individuals.

Determine if Form 6251 (Alternative Minimum Tax--Individuals), must be filed by using our Alternative Minimum Tax (AMT) Assistant available at IRS.gov by typing Alternative Minimum Tax Assistant in the search box.

Sign up to receive local and national tax news by email.

Get information on starting and operating a small business.

An important phone number: Phone. Many services are available by phone.

Ordering forms, instructions, and publications. Call 1-800-TAX-FORM (1-800-829-3676) to order current-year forms, instructions, and publications, and prior-year forms and instructions (limited to 5 years). You should receive your order within 10 days.

Asking tax questions. Call the IRS with your tax questions at 1-800-829-1040.

Solving problems. You can get face-to-face help solving tax problems most business days in IRS Taxpayer Assistance Centers (TAC). An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under United States Government, Internal Revenue Service.

TTY/TDD equipment. If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications. The TTY/TDD telephone number is for individuals who are deaf, hard of hearing, or have a speech disability. These individuals can also access the IRS through relay services such as the Federal Relay Service at www.gsa.gov/fedrelay.

TeleTax topics. Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.

Checking the status of your 2012 refund. To check the status of your 2012 refund, call 1-800-829-1954 or 1-800-829-4477 (automated Where's My Refund? information 24 hours a day, 7 days a week). Information about your return will generally be available within 24 hours after the IRS receives your e-filed return, or 4 weeks after you mail your paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2012 tax return handy so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. Where's My Refund? will provide an actual

DRAFT

personalized refund date as soon as the IRS processes your tax return and approves your refund. Where's My Refund? includes information for the most recent return filed in the current year and does not include information about amended returns.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Some products and services are available on a walk-in basis.

Products. You can walk in to some post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, and city and county government offices have a collection of products available to photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.

Services. You can walk in to your local TAC most business days for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local TAC where you can talk with an IRS representative face-to-face. No appointment is necessary--just walk in. Before visiting, check www.irs.gov/localcontacts for hours of operation and services provided. If you have an ongoing, complex tax account problem or a special need, such as a disability, an appointment can be requested by calling your local TAC. You can leave a message and a representative will call you back within 2 business days. All other issues will be handled without an appointment. To call your local TAC, go to www.irs.gov/localcontacts or look in the phone book under United States Government, Internal Revenue Service.

DRAFT

An address you may need: Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Taxpayer Advocate Service. The Taxpayer Advocate Service (TAS) is your voice at the IRS. Its job is to ensure that every taxpayer is treated fairly, and that you know and understand your rights. TAS offers free help to guide you through the often-confusing process of resolving tax problems that you haven't been able to solve on your own. Remember, the worst thing you can do is nothing at all.

TAS can help if you can't resolve your problem with the IRS and:

Your problem is causing financial difficulties for you, your family, or your business.

You face (or your business is facing) an immediate threat of adverse action.

You have tried repeatedly to contact the IRS but no one has responded, or the IRS has not responded to you by the date promised.

If you qualify for help, they will do everything they can to get your problem resolved. You will be assigned to one advocate who will be with you at every turn. TAS has offices in every state, the District of Columbia, and Puerto Rico. Although TAS is independent within the IRS, their advocates know how to work with the IRS to get your problems resolved. And its services are always free.

As a taxpayer, you have rights that the IRS must abide by in its dealings with you. The TAS tax toolkit at www.TaxpayerAdvocate.irs.gov can help you understand these rights.

If you think TAS might be able to help you, call your local advocate, whose number is in your phone book and on our website at www.irs.gov/advocate. You can also call the toll-free number at 1-877-777-4778. Deaf and hard of hearing individuals who have access to TTY/TDD equipment can call 1-800-829-4059. These individuals can also access the IRS through relay services such as the Federal Relay Service at www.gsa.gov/fedrelay.

TAS also handles large-scale or systemic problems that affect many taxpayers. If you know of one of these broad issues, please report it through the Systemic Advocacy Management System at www.irs.gov/advocate.

Low Income Taxpayer Clinics (LITCs). Low Income Taxpayer Clinics (LITCs) are independent from the IRS. Some clinics serve individuals whose income is below a certain level and who need to resolve a tax problem. These clinics provide professional representation before the IRS or in court on audits, appeals, tax collection disputes, and other issues for free or for a small fee. Some clinics can provide information about taxpayer rights and responsibilities in many different languages for individuals who speak English as a second language. For more information and to find a clinic near you, see the LITC page on www.irs.gov/advocate or IRS

DRAFT

Publication 4134, Low Income Taxpayer Clinic List. This publication is also available by calling 1-800-TAX-FORM (1-800-829-3676) or at your local IRS office.

Free tax services. Publication 910, IRS Guide to Free Tax Services, is your guide to IRS services and resources. Learn about free tax information from the IRS, including publications, services, and education and assistance programs. The publication also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on the telephone. The majority of the information and services listed in this publication are available to you free of charge. If there is a fee associated with a resource or service, it is listed in the publication.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

Current-year forms, instructions, and publications.

Prior-year forms, instructions, and publications.

Tax Map: an electronic research tool and finding aid.

Tax law frequently asked questions.

Tax Topics from the IRS telephone response system.

Internal Revenue Code--Title 26 of the U. S. Code.

Links to other Internet-based tax research materials.

Fill-in, print, and save features for most tax forms.

Internal Revenue Bulletins.

Toll-free and email technical support.

Two releases during the year.

The first release will ship the beginning of January 2013.

The final release will ship the beginning of March 2013.

Purchase the DVD from National Technical Information Service (NTIS) at www.irs.gov/cdorders for $30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for $30 (plus a $6 handling fee).

DRAFT

Index

To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

A

Abortion 5

Acupuncture 5

Adopted child's medical expenses 4

AGI limitation 2, 3

Alcoholism 5

Ambulances 5

Archer MSAs:

Health coverage tax credit 29

Medical expenses paid for decedent from 5

Artificial limbs 5

Artificial teeth 6

Aspirin 17

Assistance (See Tax help)

Assisted living homes 12

Athletic club dues 16

Autoette 15

Automobiles (See Cars)

B

Baby sitting 15

Bandages 6

Basis:

Medical equipment or property (Worksheet D) 23

Birth control pills 6

Body scan 6

Braille books and magazines 6

Breast pumps and supplies 6

DRAFT

8194 Breast reconstruction surgery 6
8195 **C**
8196 Calculation of deduction 21
8197 Capital expenses 6
8198 Improvements to rented property 7
8199 Operation and upkeep 7
8200 Worksheet A 7
8201 Cars 7
8202 Out-of-pocket expenses 14
8203 Standard medical mileage rates 14
8204 Child care 15
8205 Children's medical expenses:
8206 Adopted child 4
8207 Dependents 3
8208 Chiropractor 8
8209 Christian Scientist practitioner 8
8210 Chronically ill persons 11
8211
8212 COBRA assistance:
8213 Recapture of COBRA premium assistance 27
8214 COBRA premium assistance 26
8215 Community property states 3
8216 Computer banks to track medical information 12
8217 Contact lenses 8
8218 Controlled substances 15
8219 Cosmetic surgery 16
8220 Credit (See Health coverage tax credit)
8221 Crutches 8
8222 **D**
8223 Dancing lessons 16
8224 Decedent's medical expenses 5

DRAFT

8225 Deductible amount 3
8226 Deductible expenses 3, 15
8227 Definition of medical expenses:
8228 Doctor 2
8229 Physician 2
8230 Dental treatment 8
8231 Artificial teeth 6
8232 Teeth whitening 17
8233 Dentures 6
8234 Dependent's medical expenses:
8235 Adopted child 4
8236 Multiple support agreement 4
8237 Qualifying child 3
8238 Qualifying relative 3
8239 Dependents:
8240 Disabled dependent care 8, 11
8241 Diagnostic devices 8
8242 Diaper services 16
8243 Disabilities, persons with:
8244 Dependent care expenses 8, 11
8245 Improvements to rented property 7
8246 Special education 13
8247 Divorced taxpayers:
8248 Medical expenses of child 4
8249 Drug addiction 8
8250 Drugs (See Medicines)
8251 Dues:
8252 Health club 16
8253 **E**
8254 Education, special 13
8255 Electrolysis 16

DRAFT

8256 Employer-sponsored health insurance plans 9
8257 Employment taxes 13
8258 Equipment (See Medical equipment or property)
8259
8260 Excluded expenses:
8261 Insurance premiums 10
8262 Eyeglasses 8
8263 Eye surgery 8
8264 **F**
8265 Fertility enhancement:
8266 Eggs, temporary storage of 8
8267 Fertility 8
8268 In vitro fertilization 8
8269 Figuring the deduction 21, 22
8270 Final return for decedent:
8271 Medical expenses paid 5
8272 Flexible spending account 16
8273 Food (See Weight-loss programs)
8274 Form 1040:
8275 Form 1040, Schedule A:
8276 Impairment-related work expenses 25
8277 Medical and dental expenses 2, 21
8278 Self-employed persons, health insurance costs 25
8279 Form 1040, Schedule C:
8280 Impairment-related work expenses 25
8281 Form 1040, Schedule C-EZ:
8282 Impairment-related work expenses 25
8283
8284 Form 1040, Schedule E:
8285 Impairment-related work expenses 25
8286 Form 1040, Schedule F:

DRAFT

8287 Impairment-related work expenses 25
8288 Health coverage tax credit 29
8289 Self-employed persons, health insurance costs 25
8290 Form 1040NR:
8291 Health coverage tax credit 29
8292 Form 1040X:
8293 Amended return 3
8294 Deceased taxpayer 5
8295 Form 1099-H:
8296 Self-employed persons, health insurance costs 25
8297 Form 2106:
8298 Impairment-related work expenses 25
8299 Form 2106-EZ:
8300 Impairment-related work expenses 25
8301 Form 2555:
8302 Self-employed persons, health insurance costs 25
8303 Form 2555-EZ:
8304 Self-employed persons, health insurance costs 25
8305 ..... 34>
8306 Form 8453:
8307 Health coverage tax credit 29
8308 Form 8885:
8309 Health coverage tax credit 29
8310 Self-employed persons, health insurance costs 25
8311 Founder's fee (See Lifetime care, advance payments)
8312 Free tax services 30
8313 Funeral expenses 16
8314 Future medical care 11, 16
8315 **G**
8316 Glasses 8
8317 Guide dog or other animal 8

DRAFT

8318 **H**
8319 Hair:
8320 Removal 16
8321 Transplants 16
8322 Wigs 15
8323 Health club dues 16
8324 Health coverage tax credit 16
8325 Health Coverage Tax Credit:
8326 Advanced payments 30
8327 Alternative TAA recipient 27
8328 Alternative TAA recipient 27
8329 Archer MSAs 29
8330 Both spouses eligible 28
8331 Children of divorced parents 27, 28
8332 Eligible coverage month 29
8333 Insurance that covers other individuals 29
8334 Legally separated 28
8335 Married persons filing separate returns 28
8336 Monthly HCTC 30
8337 Nonqualified health insurance 28
8338 Other specified coverage:
8339 Benefits from the Veterans Administration 29
8340 PBGC pension payee 27
8341 Pension Benefit Guaranty Corporation (PBGC) recipient 27
8342 Qualified health insurance 28
8343 Qualifying family member 28
8344 Reimbursement credit 30
8345 Reporting 29
8346 State-qualified health insurance 28
8347 TAA recipient 27
8348 TAA recipient 27

DRAFT

8349 Yearly HCTC 29
8350 Health institutes 9
8351 Health insurance:
8352 Credit (See Health coverage tax credit)
8353 Employer-sponsored plan 9
8354 Premiums:
8355 Deductible 9
8356 Non-deductible 10
8357 Paid by employer 19
8358 Paid by employer and you 18
8359 Paid by you 18
8360 Prepaid 10
8361 Unused sick leave used to pay 10
8362 Reimbursements (See Reimbursements)
8363 Self-employed persons 25
8364 Health maintenance organizations (HMOs) 9
8365 Health reimbursement arrangements (HRAs) 18
8366 Health savings accounts (HSAs):
8367 Payments from 16
8368 Hearing aids 9
8369 Hearing-impaired persons:
8370 Guide dog or other animal for 8
8371 Help (See Tax help)
8372 HMOs (Health maintenance organizations) 9
8373 Home care (See Nursing services)
8374 Home improvements (See Capital expenses:)
8375 Hospital services 9
8376 Hotels 11
8377 Household help 16
8378 HRAs (Health reimbursement arrangements) 18
8379

DRAFT

8380 **I**
8381 Illegal operations and treatments 16
8382 Illegal substances 15
8383 Impairment-related work expenses 25
8384 Reporting of 25
8385 Insulin 17
8386 Insurance (See Health insurance)
8387 Intellectually and developmentally disabled persons:
8388 Mentally retarded 10
8389 Special homes for 10
8390 **L**
8391 Laboratory fees 10
8392 Lactation expenses (See Breast pumps and supplies)
8393 Laser eye surgery 8
8394 Lead-based paint removal 10
8395 Learning disabilities 13
8396 Legal fees 11
8397 Lessons, dancing and swimming 16
8398 Lifetime care:
8399 Advance payments for 11
8400 Lodging (See also Trips) 11, 15
8401 Long-term care 11
8402 Chronically ill individuals 11
8403 Maintenance and personal care services 12
8404 Qualified insurance contracts 12
8405 Qualified services 11
8406 **M**
8407 Maintenance and personal care services 12
8408 Maternity clothes 17
8409 Meals (See also Weight-loss programs) 12, 15
8410 Medical conferences 12

DRAFT

8411 Medical equipment or property:
8412 Adjusted basis (Worksheet D) 23
8413 Gain or loss (Worksheet E) 24
8414 Sale of 22
8415 Medical expense records 21
8416 Medical information plans 12
8417 Medical savings accounts (MSAs) 17
8418 Medicare:
8419 Medicare A, deductible expense 9
8420 Medicare B, deductible expense 10
8421 Medicare D, deductible expense 10
8422 Medicines 12
8423 Imported 12, 17
8424 Nonprescription drugs and medicines 17
8425 Missing children, photographs of in IRS publications 1
8426 More information (See Tax help)
8427 Multiple support agreement 4
8428 N
8429 Non-deductible expenses 15, 17
8430 Nonprescription drugs and medicines 17
8431 Nursing homes 12
8432 Nursing services 12, 15
8433 Chronically ill individuals 11
8434 Nutritional supplements:
8435 Natural medicines 17
8436 **O**
8437 Operations 13
8438 Cosmetic surgery 16
8439 Eye surgery 8
8440 Illegal operations and treatments 16
8441 Optometrist 13

DRAFT

8442 Optometrist services 8
8443 Organ donors 14
8444 ..... 35>
8445 Osteopath 13
8446 Oxygen 13
8447 **P**
8448 Paint removal, for lead-based 10
8449 Parking fees and tolls 14
8450 Personal injury damages 24
8451 Personal use items 17
8452 Photographs of missing children in IRS publications 1
8453 Physical examination 13
8454 Physical therapy 14
8455 Plastic surgery 16
8456 Pregnancy test kit 13
8457 Premiums (See Health insurance)
8458 Prepaid insurance premiums 10
8459 Prosthesis 5
8460 Psychiatric care 13
8461 Psychoanalysis 13
8462 Psychologists 13
8463 Publications (See Tax help)
8464 **R**
8465 Radial keratotomy 8
8466 Recordkeeping 21
8467 Rehabilitation facilities 12
8468 Reimbursements 17, 21
8469 Excess includible in income:
8470 More than one policy (Worksheet C) 20
8471 One policy (Worksheet B) 19
8472 Excess may be taxable (Figure 1) 18

DRAFT

8473 Health Reimbursement Arrangement (HRA) 18
8474 Insurance 17, 18
8475 Medical expenses not deducted 20
8476 More than one policy 19
8477 Received in later year 21
8478 Rental property:
8479 Improvements to 7
8480 Reporting:
8481 Health coverage tax credit 29
8482 Impairment-related work expenses 25
8483 Medical and dental expenses 21
8484 Medical deduction (See Form 1040, Schedule A)
8485 Self-employed persons, health insurance costs 25
8486 **S**
8487 Sale of medical equipment or property 22
8488 Adjusted basis (Worksheet D) 23
8489 Gain or loss (Worksheet E) 24
8490 Schedules (See Form 1040)
8491 Seeing-eye dogs 8
8492 Self-employed persons:
8493 Health coverage tax credit 29
8494 Health insurance costs 25
8495 Senior housing 12
8496 Separated taxpayers:
8497 Health coverage tax credit 28
8498 Medical expenses of child 4
8499
8500 Separate returns:
8501 Community property states 3
8502 Medical and dental expenses 3
8503 Service animals 8

DRAFT

8504 Sick leave:
8505 Used to pay health insurance premiums 10
8506 Special education 13
8507 Spouse's medical expenses 3
8508 Deceased spouse 5
8509 Sterilization 14
8510 Stop-smoking programs 14
8511 Surgery (See Operations)
8512 Swimming lessons 16
8513 **T**
8514 Tables and figures:
8515 Medical equipment or property:
8516 Adjusted basis (Worksheet D) 23
8517 Gain or loss (Worksheet E) 24
8518 Reimbursements, excess includible in income:
8519 More than one policy (Worksheet C) 20
8520 One policy (Worksheet B) 19
8521 Reimbursements, excess may be taxable (Figure 1) 18
8522 Tax help 30
8523 Taxpayer Advocate 32
8524 Teeth:
8525 Artificial 6
8526 Dental treatment 8
8527 Whitening 17
8528 Telephone 14
8529 Television 14
8530 Therapy 14
8531 Transplants 14
8532 Travel and transportation expenses 14
8533 Car expenses 14
8534 Includible expenses 14, 15

DRAFT

8535 Parking fees and tolls 14
8536 Trips 15
8537 TTY/TDD information 30
8538 Tuition 15
8539 **V**
8540 Vasectomy 15
8541 Veterinary fees 17
8542 Vision correction surgery 8
8543 Visually impaired persons:
8544 Guide dog or other animal for 8
8545 Vitamins or minerals 17
8546 Voluntary Employee's Beneficiary Association (VEBA):
8547 Qualified health insurance 28
8548 **W**
8549 Weight-loss programs 15, 17
8550 What's new:
8551 COBRA continuous coverage 1
8552 Health coverage tax credit 1
8553 Standard medical mileage rate 1
8554 Wheelchairs 15
8555 Wigs 15
8556 Workers' compensation 25
8557 Work expenses:
8558 Disabled dependent care 8
8559 Impairment-related 25
8560 Worksheets:
8561 Capital expenses (Worksheet A) 7
8562 Medical equipment or property:
8563 Adjusted basis (Worksheet D) 23
8564 Gain or loss (Worksheet E) 24
8565 Reimbursements, excess includible in income:

DRAFT

More than one policy (Worksheet C) 20
One policy (Worksheet B) 19
X
X-rays..... 15

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