

HUDSON HOUSING AUTHORITY

HOUSING CHOICE VOUCHER PROGRAM

ADMINISTRATIVE PLAN

July 2025

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This document is available in alternative format upon request

Approved by HHA Board of Commissioners 7/10/2025

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Glossary

## **I. Introduction and General Policies**

### **A. Introduction**

This Administrative Plan is prepared in accordance with the Department of Housing and Urban Development's Code of Federal Regulations (CFR) as set forth at 24 CFR 982.54. Throughout this document the term "Department;" or "HUD" shall mean the United States Department of Housing and Urban Development. The term "Authority" or "HA" shall mean the Hudson Housing Authority, unless reference is made stating "another" HA. The term "HCV" or "Voucher" shall mean Housing Choice Voucher under the federal Housing Choice Voucher Program. The term "FMR" shall mean, "Fair Market Rent" for the federal Section 8 program as determined by the Department of HUD. Other abbreviations will be so noted within the body of this document.

### **B. Reasonable Accommodation**

The Housing Authority is aware of the requirement to provide a Reasonable Accommodation in its rules or policies when so required under the law. Thus, certain policies described herein may be amended in specific situations if to do so is required as a reasonable accommodation to an individual with a disability. The provision of such accommodation shall not mean that such policy has been altered or amended and the Authority shall retain full authority to continue to enforce policies as so described within this plan for all other clients.

The HA will make Reasonable Accommodations in accordance with the HA's Reasonable Accommodation in Rental Assistance Policy.

### **C. Limited English Language Ability and Effective Communications with Individuals with Disabilities**

If an Applicant/Participant cannot understand or read English, HA staff will read and explain documents that they would normally hand to the Applicant/Participant to be read or filled out. An Applicant/Participant who cannot read or understand English may need to be provided with an interpreter who can explain any policies or procedures.

The HA will take reasonable steps to assure meaningful access by persons with limited English ability. Such steps will include translation of common written materials into those languages frequently spoken by Applicants/Participants.

The HA will also ensure that communications and materials are provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and their implementing regulations. Where required, the HA will provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, *e.g.*, Braille, audio, large type, assistive listening devices, and sign language interpreters.

#### **D. Violence Against Women Act Policy**

The fact that an Applicant or Participant or affiliated individual is or has been a victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking, is not an appropriate basis for denial of program assistance or for denial of admission if the Applicant or Participant otherwise qualifies for assistance in accordance with this plan. The HA's VAWA Policy is on file at the HA for review. The HA will comply with the law and act in accordance with the HHA's VAWA Policy.

#### **E. Equal Opportunity Housing, Fair Housing and Deconcentration of Poverty**

##### **1. Affirmatively Further Fair Housing**

The HHA administers the HCV program in compliance with all applicable fair housing and other civil rights requirements, including the authorities cited at 24 CFR § 5.105(a). This includes, but is not limited to, the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, titles II or III of the Americans with Disabilities Act, and HUD's Equal Access Rule. The HA must also affirmatively further fair housing in accordance with its certification pursuant to 24 CFR § 903.7(o).

It is the objective of the Housing Authority (HA) to ensure that our policies and practices affirmatively further fair housing, promote equity, enhance choice and overcome the effects of impediments to fair housing choice. It is the policy of the HA to comply fully with all Federal, State and local nondiscrimination laws and with the rules and regulations governing Fair Housing, Civil Rights and Equal Opportunity in housing and employment. The HA certifies that it will provide equal opportunities for inclusion in our housing programs regardless of a person's race, religion, color, national origin, sex, sexual orientation, age, ancestry, familial status, veteran status, or physical or mental impairment.

The HA will be affirmative in our goal of complying with all fair housing requirements under the law by educating our housing partners in their responsibilities under the law. The HA will affirmatively further fair housing by continuing to educate our staff on fair housing laws and send staff to fair housing and reasonable accommodation trainings. The HA will affirmatively further fair housing by placing Fair Housing Posters in the waiting area and including fair housing information in all briefing packets for our tenants and voucher recipients. The HA will inform voucher holders of their rights under Fair Housing Laws, how to report unlawful discrimination and procedures for filing complaints.

The HA will make reasonable accommodations in adjusting the search time and payment standard as referenced within this administrative plan. Further the Housing Authority takes into consideration the Value of an Accessible Unit when determining the Reasonable Rent for the unit.

The HA will promote housing choice and mobility to all our voucher recipients. The HA keeps a bulletin board in the waiting room with lists of apartments, including handicapped accessible units, for all our applicants and voucher recipients to see. The majority of the rental listings are in high income, low poverty communities, including the Town of Hudson. Further, the HA has a relationship with local realtors and property owners who list properties for rent in Hudson that fall within HHA's payment standard.

The HA will work to address the following impediments to fair housing choice as identified by our jurisdiction in their Analysis to Impediments to Fair Housing Choice:

- The inadequate enforcement of fair housing laws and insufficient education about fair housing throughout the housing delivery system.
- A persistent lack of knowledge regarding the housing rights of people with disabilities and ongoing segregation and stigmatization of people with disabilities.
- The Massachusetts housing market has been characterized by escalating prices, limiting homeownership and rental opportunities for low/moderate income households.
- Inadequate mobility inhibits achievement of fair housing objectives; language barriers faced by recent immigrants create an increased challenge to mobility.

The majority of our voucher holders live in high income, low-poverty communities. The majority of our housing resources and support services are targeted towards low and very low-income persons.

## 2. Encouraging Participation of By Owners of Suitable Units Located Outside of Areas of Low Income or Minority Concentration

Hudson is a stable community with an excellent school system. According to the 2017 to 2021 American Community Survey, the Town of Hudson's median income was \$94,191 with only 5.7% of persons in poverty. The U.S. Census Bureau, Population Estimates Program (PEP), resident population and net change v. 2022 indicates that 86% of the population is white alone. The Housing Authority encourages participation by owners of suitable units located outside areas of low income or minority concentration with the "owner's brochure" which describes the benefits to owners renting to participants under the Federal Section 8 Program. Further, the HA has a relationship with local realtors who list properties for rent in areas of low poverty/minority concentration.

The lack of affordable rental housing and affordable homeownership in our community, in a de facto manner, limited fair housing choice. The affordable rental housing that the HA provides through our federal and state aided housing and federal voucher programs is one step to overcome the impediments to fair housing choice.

The HA will take the following steps to address the impediments to fair housing choice:

- Increase staff knowledge of fair housing laws and obligations. The HA will collaborate with organizations to provide education and outreach to our Board, staff, consumers (tenants, voucher recipients, and applicants) and landlords.
- Facilitate education for community stakeholders on fair housing laws, including predatory lending practices and housing discrimination against mobile voucher holders. This will be done by incorporating fair housing information into existing materials and outreach, and by participating in fair housing trainings. Awareness of legal resources for fair housing violations will also be promoted.



- The HA will participate in Housing Navigator, an online housing registry of affordable housing opportunities that are accessible to persons with disabilities.
- The HA promotes integrated housing to meet a diversity of housing needs.
- The HA will advise families to refer complaints of non-compliance with fair housing laws to the Massachusetts Commission Against Discrimination and HUD.
- The HA will seek to increase the supply of affordable housing and rental assistance for very low-income households.

The HA's office and community space is accessible to people with disabilities. Accessibility for the hearing impaired is provided by the TTD/TDY telephone service provider.

#### a. Landlord Outreach

The HA will continue to encourage participation of by owners of suitable units located outside of areas of low income or minority concentration by working with the local landlord community in this area of low poverty and minority concentration as noted above to educate them as to the benefits of renting to families under the HCV program.

The HA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HA will actively recruit property owners with property located outside of poverty and minority concentration. These outreach strategies may include attendance at workshops and meetings to describe the HCV program, maintaining contacting with property owners and managers, sponsoring or attending owner recruitment/information meetings and continuing to participate in community-based organizations. Outreach strategies will be monitored for effectiveness and adapted accordingly.

Landlords may also review the information provided through the HHA's vendor [affordablehousing.com](http://affordablehousing.com), as to benefits in renting to families assisted by HCVs as well as to participate in a rental listing service.

#### b. Landlord Retention

The HA will encourage participating owners to remain active in the program by rapidly processing request for tenancy approvals and inspections so as to

minimize vacancy losses whenever possible. The HA has a designated contact person to coordinate inspection and leasing activities.

## **II. The Section 8 Waiting List**

### **A. Maintenance of the Waiting List**

The HHA participates in a Centralized Waiting List Administered by MassNAHRO and the policies related thereto are set forth within the applicable amendment to this Administrative Plan which is attached as Exhibit A.

### **B. Marketing and Outreach**

The Centralized Waiting List remains open. If and when it is closed, when it opens the public notice will be given so that families are informed that they may apply for tenant-based assistance. This public notice will state where and when the applicant may apply.

In this instance, the HHA will place advertisements in prominent publications such as the Boston Globe and Herald. Additionally, minority media outlets like the Bay State Banner and Sampan will be utilized. These advertisements will prominently feature an Equal Opportunity logo.

In the event that the above referenced newspaper(s) and/or minority media are not available or practical for use, comparable minority media/newspapers will be utilized by the HA.

Other advertisements may be included at the discretion of the HA, i.e., sending out to shelters, churches, schools, etc.

The HA coordinates with a variety of homeless shelter administrators, non-profit and for-profit housing providers, and community-based organizations to identify households who may qualify for Housing Choice Voucher assistance and to help with the application process and submission.

Outreach activities will be performed in other languages if needed and as appropriate. This is done in a manner to ensure that the HA is attempting to reach those families “least likely to apply” as defined by HUD.

The Massachusetts NAHRO has a website which has information including a, “Frequently Asked Questions” page. The HHA will direct applicants to this website

at [www.section8listmass.org](http://www.section8listmass.org). Clients are also referred to Housing Navigator Massachusetts.

### **C. Order of Selection from the Waiting List**

#### **1. Preferences and Date and Time of Application**

Applicants will be selected in chronological order by date and time of application after application of the HHA's local preference. Category. Families with the local preference will be served first by date and time of application and then families with no preference will be served by date and time of application. Within each of these three groups families are served by date and time of application.

The applicant at the time of application or at any time prior to selection from the waiting list must identify the preference. Prior to eligibility determination, the Authority shall require the applicant to provide verification of eligibility for the preference asserted by the applicant based on the applicant's current status. The burden shall be upon the applicant to provide the documentation necessary to establish such preference eligibility to the satisfaction of the Authority. Applicants are required to contact the Authority if any change in family composition, income, or factors affecting eligibility for a preference occurs.

#### **2. Local Preference Categories**

The Authority has established the following local preference categories for determining the order of offering vouchers:

##### **a. First Served - HCV With Terminated HAP contracts**

Families assisted under the HHA's HCV program that have had a HAP contract terminated due to insufficient funding shall be served first as vouchers become available.

##### **b. Verification**

The Housing Authority will verify this information as follows:

Internal HHA records.

### **c. Second Served - Split Domestic Violence Households Preference**

Pursuant to PIH 2017-08, the PHA may have a family break-up policy allowing for assistance to be provided to both persons seeking VAWA protection. The HHA will adopt such a policy in limited circumstances as follows: In cases where there is a family break up due to Domestic Violence Dating Violence Sexual Assault, or Stalking and the victim and perpetrator are both family members on the lease, household composition and residing in the HHA HCV assisted unit but the HHA cannot be assured to a reasonable level to whom the voucher should be provided (i.e., both claiming victim status), the HHA may provide assistance to both parties. The provision of voucher assistance to both parties may be temporary or permanent. If the Housing Authority is able to determine at a later date with reasonable likelihood which individual has victim status, the individual with perpetrator status may be terminated from the HCV program.

### **d. Verification**

The Housing Authority will verify this information as follows:

Internal HHA records.

### **e. Third Served Hudson Residency Preference**

A preference will be applied to applicants that live or work in Hudson.

The use of this residency preference will not have the purpose or effect of delaying or otherwise denying member of an applicant family.

### **f. Verification**

The Housing Authority will verify this information as follows:

- Verification of employment demonstrating that the applicant or family member works or is part of a job training program for employment (which would be in Hudson) or has been hired to work in Hudson; or
- School record; or
- Copy of a current residential lease with the eligible household member's name listed on it; or

- Valid driver's license or state ID card; or
- Medical card with current address; or
- Utility bill (electricity or gas) with eligible household member's name on it; or
- Social Security printout; or
- Voter's registration card; or
- Credit report.

Any other documentation that provides the HHA with acceptable evidence of this Preference criteria.

### 3. Determination of Local Preference Qualifications

At the time of application an applicant may certify that they qualify for a preference. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the preference and given an opportunity for an informal review.

### 4. The 75% Rule in Relation to Preferences

Of the families initially provided tenant-based assistance under the section 8 program by the Housing Authority in any fiscal year, not less than 75% shall be families whose incomes do not exceed 30% of the area median income as determined by the Secretary. The local preference policy is subordinate to this provision, and admissions to the program will be monitored to assure compliance. To ensure compliance with this mandatory requirement the Housing Authority monitors income level of admissions as required by HUD and will admit the next otherwise qualified extremely low-income applicant on the waiting list before a low or very low-income applicant if necessary for compliance with this 75% Extremely Low-Income requirement.

## **III. Eligibility**

### **A. Definition of Family**

Each applicant for assistance under the housing choice voucher program must meet the PHA's definition of family.

A family is either a single person or a group of persons and includes:

A household with or without children. A child who is temporarily away from home due to placement in foster care is considered a member of the family.

An elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.

A disabled family, which means a family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides.

A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by federal disaster relief laws.

A remaining member of a tenant family is a family member of an assisted tenant family who remains in the unit when other members of the family have left the unit.

An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

## **B. Income Limits and Targeting Extremely Low-Income Families**

To be income-eligible, the applicant must be a family in any of the following categories:

1. A “very low income” family;

2. A low-income family that is “continuously assisted” under the 1937 Housing Act;
3. A low-income family that meets additional eligibility criteria specified in the PHA administrative plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA jurisdiction;
4. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D));
5. A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in §248.101 of this title;
6. A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under §248.173.

Only 25% of admissions may be above the extremely low-income level. The Housing Authority will track this information and reserves the right to “skip over” a low or very low-income family that may be otherwise eligible to serve an extremely low-income level applicant if the Housing Authority must do so to meet the income targeting requirement. Extremely Low-income families are defined as very low-income families whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level. (See HUD’s 2014 Appropriations Act is Title II of Division L of Public Law 113-76, 128 Stat. 5, approved January 17, 2014.)

### **C. When a Family is Considered “Continuously Assisted”**

A family is considered continuously assisted even if they were not subsidized under a program covered under the 1937 Housing Act provided that such period of non-receipt of

subsidy assistance is related to certain program technicalities. Example of a program technicality includes a move with tenant-based assistance where the new HAP is not executed due to no fault of the Section 8 participant or non-receipt of subsidy during proposed termination proceedings.

Further a family will be considered continuously assisted when a family assisted under a program covered under the 1937 housing act moves temporarily to a shelter because of domestic abuse or other similar emergency based temporary relocation.

The Housing Authority will make this determination on a case-by-case basis taking into consideration the facts and circumstances of each case. When approval is granted, the family must complete all required documents and submit to all screening of applicants to the program except that the income limit used for re admission may be the low-income limit and there will be no screening for any waiting list preferences if applicable.

#### **D. Form 9886-A**

After January 1, 2024, applicants and participants must sign and submit the HUD-9886, as applicable, at admission and no later than the next interim or regularly scheduled income reexamination. At each annual or interim or non-interim reexamination, the HHA will determine if any family member turned 18 and has not yet signed the HUD-9886 A form. Such a family member will be required to sign the appropriate form at the reexamination or earlier if requested by the HHA.

After an applicant or participant has signed and submitted an updated consent form, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the HHA in administrative instructions.

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). The HHA will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).



Families have the right to revoke consent by providing written notice to the HHA; however, revoking consent will result in termination of assistance, eviction or denial of admission. The HHA has a policy that the revocation of consent will result in termination of assistance or denial of admission. The family member may be permitted to sign a new consent form in order to avoid termination of assistance or eviction.

The HHA will notify their local HUD office of a family's revocation of consent.

The HHA will deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F. This requirement applies to applicant families, and any new members being added to the household of a family currently participating in a rental assistance program administered by the HHA.

Request for information by other parties must be accompanied by a signed release request in order for the HHA to release any information involving an applicant or participant, unless disclosure is authorized under Federal or State law or regulations.

#### **E. Asset and Ownership of Real Property Limits**

**This Section E Not effective until a date to be determined by HUD and the HHA.**

##### **1. Net assets in excess of \$100,000**

A family is not eligible to receive assistance if the family has net assets in excess of \$100,000 (as defined in 5.603), as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

##### **2. Property Suitable for Occupancy**

A family is not eligible to receive assistance if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.

##### **a. Not suitable for occupancy**

A property is suitable for occupancy unless the following applies:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the HHA); Hardship is defined as 60 miles from work or school or other compelling circumstances that will impact commute.
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical conditions pose a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located (ie. the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

## **b. Limitations**

The restriction is not applicable to:

- Any property for which the family is receiving assistance under 24 CFR 892.620 (i.e., a manufactured home owned by a family who receives assistance to lease the space or lot in which it is located); or under the Homeownership Option in 24 CFR part 982;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owners property;
- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking as defined in part 5 (subpart L); When a

family asks for or about an exception to the real property restriction because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HHA or owner must comply with the confidentiality requirements under 5.2007. The HHA or owner must accept a self-certification from the family member, and the restrictions on requesting documentation under 5.2007 apply; or

- Any family that is offering such property for sale (the HHA will require documentary evidence of the sales process could include, for example, a contract with a real estate agent or a current real estate listing).

**c. Effective Authority to sell.**

The real property restriction applies when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located.

Reasons a family does not have such legal authority could possibly include when families are contesting ownership of a property in court, or an individual is in divorce proceedings, and they may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled.

Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. For example, a divorce pleading or complaint may demonstrate that there are actual divorce proceedings occurring.

**d. Real Property Ownership may also count towards the \$100,000 Asset Limitation**

There are several exemptions to the real property restriction which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation.

Those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value

of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

#### **e. Enforcement**

Asset and Ownership of Real Property limits are enforced at admission only.

### **F. Citizenship or Eligible Immigration Status**

#### **1. Introduction**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals, or noncitizens with eligible immigration status. If certain members are not eligible The HHA will prorate the housing assistance pursuant to federal regulations which are in effect at the time. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

The Family must execute all necessary forms and provide applicable verification where required to fulfill the requirements of the federal regulations governing restrictions on assistance to noncitizens. The HHA will verify the citizenship/eligible noncitizen status of applicants at the time other eligibility factors are determined.

These guidelines apply to applicant families, and any new members being added to the household of a family currently participating in a rental assistance program administered by the HHA.

#### **2. Declaration Form**

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

### 3. Verification for U.S. Citizens and Nationals

For U.S. citizens or U.S. nationals the HHA will accept the declaration form as required by HUD regulations addressing restrictions on assistance to noncitizens and will only require verification in cases of suspected fraud.

### 4. Verification for Eligible Noncitizens

The HHA will require documentation in accordance with federal regulations governing restrictions on assistance to noncitizens and where required will verify immigration status with the United States Citizenship and Immigration Service in accordance with procedures for the System Alien Verification for Entitlements (SAVE) system.

### 5. Eligibility of citizens of the “Freely Associated States”

In 2001 PIH 2001-27 issued a notice indicating Citizens of the Republic of the Marshall Islands (RMI), Republic of Palau, and the federated states of Micronesia (FSM) (collectively referred to as the “Freely Associated States” or “FAS.”) were now eligible for federal housing benefits<sup>1</sup>.

Documentation to verify the above status is not set forth in the HUD Notice. The USCIS fact sheets, dated October 26, 2018, indicates that the following documents may be issued by the USCIS to citizens of the RMI and FSM upon request from USCIS:

- i. Form I-766, Employment Authorization Document (EAD) with a category code of A08.
- ii. Passport admission stamps as follows: reflecting that the admission relates to the Compacts. “CFA/FSM” for an FSM

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<sup>1</sup> 42 U.S.C. §1436a. Restriction on use of assisted housing by non-resident aliens (7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: **Provided**, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.”

citizen and “CFA/MIS” for an RMI citizen. Some older versions may be marked “CFA/RMI” for an RMI citizen. For Republic of Palau, “CFA/PAL” (Compact of Free Association/Palau).

iii. Form I-94, Arrival/Departure Record.

## **6. Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures**

The HHA will follow the procedures as set forth in PIH Notice 2017-02 if a self-petitioners indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214 covered housing providers (PIH Notice 2017-02).

Once a The HHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required in the HUD notice to complete the verification.

## **7. Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing form, signed by the head, spouse, or cohead (regardless of citizenship status), indicating that that individual does not content to have eligible immigration status. These families will be considered “mixed families.”

## **8. Mixed Families**

Under current regulations a family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated pursuant to federal regulations, and that they may request a hearing if they contest this determination. If PHA legal obligations are modified in relation to the provisions of assistance to noncitizens in mixed families, The HHA will comply with such requirements.

## **9. Ineligible Families**

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

When The HHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice.

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

### **G. Social Security Numbers**

Disclosure of Social Security Numbers (SSN) requires submission of the following:

- The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance applicant's household; and
- A valid SSN card issued by the Social Security Administration; or
- An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual; or
- Such other evidence of the SSN as HUD may prescribe in administrative instructions.

HUD has indicated that PHAS may accept a self-certification and a third-party document with the applicant's name printed on it. The HHA will generally not accept this as verification.

In rare and compelling circumstances when no other document is available to the family, the HHA may accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

The HA will document why the other SSN documentation was not available. If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the HHA will obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance will be terminated if they fail to provide the required documentation.

#### **10.Rejection of Documentation**

The HHA may reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged. In such cases the HHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HHA within 90 days.

#### **11.Requirements for Applicants**

Applicants must submit disclosure information set forth above.

If an applicant is otherwise eligible to participate in a program, the applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household as set forth above.

However, if a child under the age of 6 years was added to the assistance applicant household within the 6-month period prior to the household's date of voucher issuance, the assistance applicant may become a participant, so long as the documentation required is provided to the processing entity within 90 calendar days from the date of admission into the program (or, for the HCV program, the effective date of the Housing Assistance Payment contract). The HHA must grant an extension of one additional 90-day period if the HHA determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation required under the rule within the required time period, the HHA will follow the provisions of 24 CFR §5.218.



## **H. Student Rule**

For students that are applying for HCV assistance not residing with their parents, the HHA may need to determine that they would be income eligible taking parental income into consideration.

Specifically, if a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents.

Unless a student meeting the above criteria is determined independent from his/her parents, both the student and the student's parents must be income eligible for the student to receive HCV assistance.

The HHA will consider a student to be independent for purposes of this rule if all four criteria below are met:

1. The individual is of legal contract age under state law.
2. The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.
3. The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
4. The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

- The individual is at least 24 years old by December 31 of the award year for which aid is sought
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
- The individual is a graduate or professional student
- The individual is married
- The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
  - A financial aid administrator
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

#### **IV. Denial of Assistance**

This section describes the guidelines the Housing Authority has established for screening applicants for drug abuse and other criminal activity. The section includes HUD-required screening standards, as well as discretionary standards allowed by HUD. The Housing Authority will deny program admission if there is reasonable cause to believe that an applicant family has engaged in activity prohibited by these guidelines.

These guidelines apply to applicant families, and any new members being added to the household of a family currently participating in a rental assistance program administered by the Housing Authority. The Housing Authority also screens families transferring into its jurisdiction from other housing authorities, as authorized at 24 CFR §982.355(c)(9) and §982.355(c)(10).

## A. Denial of a Voucher

### 1. Rejection of Documentation

- a. **Denial** means a HA action which denies listing on the HA waiting list, denying or withdrawing a voucher, refusing to enter into a HAP Contract or approve a Lease or refusing to process or provide assistance under Portability procedures.
- b. **Drug Related Criminal Activity** is defined in 14 CFR Part 5.100 as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

An “illegal drug” is defined as any controlled substance, in any amount, as defined by the United States Code, Title 21, section 802, including but not limited to narcotics, amphetamines, hallucinogens, cocaine, marijuana, designer drugs, or other intoxicants. This definition also specifically includes over the counter medications used in the manufacture of illegal drugs or for the purposes of becoming intoxicated, and pharmaceutical medications which are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a physician for the purposes of becoming intoxicated.

- c. **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 to be reasonably likely to cause, serious bodily injury or property damage.

### 2. Considerations in Certain Denials

- a. *Consideration of circumstances generally.* The HA has the discretion to consider all the circumstances in each case including, but not limited to, the seriousness of the offense, the extent of the criminal history, the extent of participation by Family members, and the effects that denial will have on Family members not involved in the alleged activity.

- b. *Reasonable Accommodation.* The HA shall consider a request for Reasonable Accommodation by an Applicant who has a disability or handicap, has a record of a disability or handicap, or is perceived as having a disability or handicap.
- c. *Mitigating Circumstances.* The HA shall consider mitigating circumstances such as active participation in, or completion of, a supervised drug treatment program.
- d. *Retention of assistance by a portion of the Family.* The HA may, in its discretion, allow only a portion or certain members of the Family to be admitted to the HCVP, if there is sufficient evidence that the Family member who engaged in the alleged activity will not reside in the Unit or if the Head of Household certifies that the Family Member who engaged in the alleged activity will not reside in the Unit.
- e. *Minors.* If the violating member is a minor, the Housing Authority may consider individual circumstances with the advice of Juvenile Court officials.
- f. *Project based vs. tenant-based assistance.* The HA may consider whether the Applicant will receive project-based assistance, which has as one of its components supportive services that may be appropriate for the participant.
- g. *Domestic Violence.* The HA may consider an incident or incidents directly related to Domestic Violence, Dating Violence, or Stalking as mitigating circumstances when the incident or incidents of Domestic Violence, Dating Violence, or Stalking is directly related to the reason for denial.

### 3. Mandatory Denial

The Family must be denied a Voucher, even if they are otherwise eligible:

- a. If any Family Member fails to sign and submit Consent forms for obtaining information in accordance with this Administrative Plan and 24 C.F.R. part 5, subpart B and F.

- b. If any Family Member fails to submit required evidence of citizenship or eligible immigration status (or non-contending forms) in accordance with 24 C.F.R. part 5, subpart F and policies within this Administrative Plan.
- c. The family does not meet the social security number disclosure, documentation and certification requirements. The HA will comply with the requirement to provide extensions as required under applicable regulations with regard to children under the age of six without a social security number as described elsewhere within this plan.
- d. The family does not meet income eligibility requirements.
- e. Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- f. If any Family Member has been evicted from federally assisted housing within the last three years for Drug Related Criminal Activity. 553.(a) (1) (i)

However, the HA may admit the Family if the HA determines:

That the evicted Family Member who engaged in the drug related criminal activity has successfully completed a supervised drug rehabilitation program.

That the circumstances for leading to eviction no longer exist (for example, the criminal Family Member has died or is serving a lengthy prison term).

- g. If any Family Member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the Premises of federally assisted housing, the HA will permanently prohibit Admission to the Section 8 program.
- h. If any Family Member is subject to a lifetime registration requirement under a state sex offender registration program in Massachusetts or any other State. This is regardless of longevity of conviction or completion of any rehabilitative program. [982.553 (a) (2)]

- i. If the Family member is currently engaging in illegal use of a drug [24 CFR 982.553(a) (1) (ii) (A)] Use within the past 12 months shall create a rebuttable presumption of current use.
- j. If the HA determines that it has reasonable cause to believe that a Family member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents. [982. 553 (a) (3)]
- k. If the HA determines that there is reasonable cause to believe that a Family 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. [24 CFR 982.553(a) (1) (ii) (B)]]
- l. If any member of the family has been evicted from housing assisted under the program for serious violation of the lease.
- m. If the family has net assets as defined in §5.603 in excess of \$100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers. **This provision is effective on the HOTMA 102 and 104 implementation date as determined by HUD and the HHA.**
- n. If the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence. **This provision is effective on the HOTMA 102 and 104 implementation date as determined by HUD and the HHA.**

#### 4. Discretionary Denial

The HA may deny a Family a Voucher, even if they are otherwise eligible, if any Family member:

- a. Has been evicted from federally assisted housing in the last five years; or
- b. If a PHA has ever terminated assistance under the program for any member of the Family
- c. Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing assistance program;

- d. *Owes uncollected rent or other amounts (including but not limited to, court costs, constable fees, or other related fees) arising during the Applicant's receipt of benefits from any program administered by the HA or other Publicly Assisted Housing Program.*
- e. The family has failed to reimburse the HA or another PHA for rent or any other amount paid to an Owner under a contract or Lease provision;
- f. Has breached an agreement to repay a debt to the HA or another HA;
- g. If a welfare-to-work family failed, willfully and persistently, to fulfill its obligations under the Section 8 welfare-to-work voucher program.
- h. Has violated any Family obligation under the Section 8 Program as stated in 24 C.F.R. § 982.551 or listed in this administrative plan.
- i. Has engaged in or directed abusive, threatening or violent behavior toward HA personnel;
- "Abusive or violent behavior" 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 denial.
- "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
- Actual physical abuse or violence will always be cause for denial.
- j. Any Family member is currently engaged in, or has engaged in during a reasonable time before the Admission:
  - i. Drug Related Criminal Activity;

The HA may not deny assistance due to use or possession of a controlled substance by a Family member if the Family member can demonstrate that s/he has an addiction, has a record of an addiction, or is regarded as having an addiction to a controlled substance, and is recovering or has recovered from such addiction and does not currently use or possess a controlled substance.

The HA will under these circumstances require a Family member who has engaged in the illegal use of a controlled substance to submit verifiable evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

ii. Violent Criminal Activity;

HUD regulations at 24 CFR 5.100 define violent criminal activity to mean 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;

- iii. Other criminal activity which may threaten the health safety, or right to peaceful enjoyment of the Premises by other residents or persons residing in the immediate vicinity; or
- iv. Other criminal activity which may threaten the health or safety of the Owner, property management staff, or persons performing a contract administration function on behalf of the HA (including a HA employee or a HA contractor, subcontractor, or agent).

For the purposes of this provision unless otherwise noted, “reasonable time” will depend on the individual circumstances including but not limited to the seriousness of the crime and number of matters under consideration.

If the HHA previously denied admission to an applicant because a member of the household engaged in criminal activity, the PHA may reconsider the applicant if the HHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, as determined by the HHA, before the admission decision.

The HHA may have “sufficient evidence” if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided credible supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which the HHA verified.



In conducting a review of an applicant's history of criminal activity the review shall be limited to a period of three (3) years for criminal activities which would be punishable as a misdemeanor or equivalent level of culpability under local law and seven (7) years (except where the Housing Authority has an obligation to ban applicants whose criminal activity is subject to mandatory denial) for an activity which would be punishable as a felony or equivalent level of culpability under local law. The time period shall run from the date of conviction or the release date, whichever is later. The Housing Authority may deny an applicant whose criminal record shows a pattern of violent criminal activity, or activity that is inherently violent, even though the activity has occurred outside of the time frame set out above.

#### B. Criminal Background Checks

The Housing Authority requests a criminal background check for all applicant household members (including live-in aides) 18 years of age and older. The criminal background check is used as a factor in screening applicants for criminal activities that would prohibit admission to the Housing Authority's Section 8 rental assistance programs.

All adult members of an applicant household must submit a signed Criminal Background Consent Form, authorizing the release of criminal conviction records from law enforcement agencies. Failure to sign the consent form will result in the denial of assistance.

A criminal conviction alone may or may not result in the denial of assistance. Factors such as disclosure, completion of a drug or alcohol rehabilitative treatment program, type and longevity of the conviction, reasonable accommodation and Violence Against Women Act may also be taken into consideration.

The Housing Authority's CORI Policy sets forth further information with regard to the manner and use of CORI.

#### C. Statutory and Regulatory Changes and HUD Directives

Nothing in the plan serves to limit the Housing Authority from terminating assistance on grounds authorized by State, Federal or local law or by HUD directive.

#### D. Screening by Owners

The screening performed by the HA is to determine that the family is eligible for Section 8 assistance, which generally means that the family is income eligible and has no recent history of violent, drug related criminal activity or other matters which would make the family ineligible based upon the contents of the Administrative Plan, HUD regulations, guidance or state or local law. The HA strongly encourages owners to perform screening prior to accepting any new tenant. Legal procedures utilized by owners to screen market tenants should also be utilized by owners to screen Section 8 participants.

#### **E. Providing Information to Prospective Owners About the Family**

Under Federal Regulations the HA is required to notify prospective landlords of:

The family's current and prior address (as shown in the HA/records); and

The name and address (if known to the HA) of the landlord at the family's current and prior address.

Subject to privacy and confidentiality laws:

Upon the request for such information by the prospective landlord, if the information is contained in Housing Authority records and the tenant has authorized the release of such information, the information will be provided to the prospective landlord by the HA.

The Housing Authority will not provide prospective landlords any additional information related to screening the tenant. The landlord is responsible for tenant screening.

#### **F. Portability**

Receiving PHAs may rescreen families who have moved into their jurisdiction under portability by applying their own policies for denial or termination of assistance under HCV regulations at 24 CFR § 982.552 or 24 CFR § 982.553. The receiving PHA may refuse to assist a portability family by referring the family back to the initial PHA, or terminate the family's HCV participation, on any of the grounds in 24 CFR § 982.552 or 24 CFR § 982.553. The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed. However, receiving PHAs may take subsequent action against the family (as explained in the preceding sentence) based on the results of the rescreening.

Receiving PHAs do not need prior HUD approval to refuse portability assistance in these cases because they are authorized under regulation to deny the move in accordance with their screening policies. This is because the regulatory meaning of both denial of assistance (applicants) and termination of assistance (participants) specifically includes refusing to process or provide assistance under the portability procedures. If the receiving PHA refuses the portability move, the initial PHA is not precluded from assisting the family either in the initial PHA jurisdiction or by allowing the family to port to another receiving PHA's jurisdiction in accordance with the portability procedures.

At this time the HHA does not rescreen incoming portability families that have been approved for the program by the initial housing authority.

## **V. Voucher Issuance and Housing Search**

### **a. The Section 8 Briefing**

When the HHA selects a family to participate in a tenant-based program, they give the family an oral briefing. The briefing includes information on the following subjects:

- A description of how the program works;
- Family and owner responsibilities;
- Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction, and any information on selecting a unit that HUD provides.
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order. The family must be informed of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.
- The briefing must also explain the advantages of areas that do not have a high concentration of low-income families.

The family will also be provided with a Briefing Packet that includes information on the following subjects:

- The term of the voucher, voucher suspensions, and HHA policy on any extensions of the term. The packet explains how the family can request an extension;

- How the HHA determines the amount of the housing assistance payment, payment standard and, total tenant payment for a family.
- How the HHA determines the maximum rent for an assisted unit;
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.
- The HUD-required “tenancy addendum” that must be included in the lease;
- The form that the family uses to request HHA approval of the assisted tenancy, and an explanation of how to request such approval;
- A statement of the HHA policy on providing information about a family to prospective owners;
- HHA subsidy standards, including when the PHA will consider granting exceptions to the standards;
- Materials (*e.g.*, brochures) on how to select a unit and any additional information on selecting a unit that HUD provides;
- Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form;
- A list of landlords known to the HHA who may be willing to lease a unit to the family or other resources (*e.g.*, newspapers, organizations, online search tools) known to the HHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
- Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the PHA that may be available;
- Family obligations under the program;
- The advantages of areas that do not have a high concentration of low-income families.
- The Housing Authority may supplement this with additional materials to assist the family in their housing search.
- Subsidy Standards

## **b. Subsidy Standards**

### **1. Standards**

The subsidy standards for the Housing Authority are designed to provide for the smallest number of bedrooms without overcrowding.

Two adults will share a bedroom unless they are related by blood.

Two children of the opposite sex will share a bedroom unless the oldest of the two children is age six (6) or above.

Two children of the same sex will share a bedroom.

Adults and children will not be required to share a bedroom.

Live-in-aides will be counted in determining family unit size.

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

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

Upon request and verification of the necessity for such, exceptions of subsidy standards may be made by the Housing Authority if to do so serves to provide a reasonable accommodation for a person with a disability.

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

## **2. Exceptions to Subsidy Standards**

The HHA may grant an exception to its established subsidy standards if the HHA determines that the exception is justified by the age, gender, health, handicap, or relationship of family members or other personal circumstances.

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

The HHA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an explanation of the determination and an informal hearing of the issue is not resolved at the time of explanation.

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

**d. Term of the Voucher; Extensions; and Suspensions**

**a. Initial Term**

The Housing Authority shall issue all vouchers with a term of 120 Days.

**b. Extensions**

**1. First Extension**

The HA may grant an additional 2 to 60 days if the Housing Authority is informed by the family that, although a diligent housing search was made, the family was unable to locate suitable housing. The Housing Authority may require that the family provide evidence of their diligent housing search prior to the HA granting this extension.

Further, the Housing Authority may grant an additional 2 to 60 days if the Housing Authority is informed by the family that extenuating circumstances have prevented the family from finding a unit, such as:

- Serious illness in the family;
- Death in the family;
- Family emergency;
- Obstacles due to employment;
- Whether family size or other special requirements made finding a unit difficult;
- Family believes that they have been the victim of illegal discrimination in their housing search; or
- Needs related to Domestic Violence, Dating Violence Sexual Assault, or Stalking.

The Housing Authority may require that the family provide evidence of the extenuating circumstances in advance of granting the request for this additional search time.

## 2. Additional Extensions

If the extension provided are less than 180 days in total, the HHA may grant an additional extension of the number of days which will provide for up to 180 days of total voucher term if the Housing Authority is informed by the family that the circumstances in paragraph (i) or (ii) still apply and the provides the HHA with evidence of such circumstances as set forth above.

## 3. Reasonable Accommodation

Upon request by the family, the Housing Authority may, in its discretion, issue an extension if such extension is necessary as a reasonable accommodation for a person with disabilities. Such extensions will be granted in writing by the HA only when the HA considers the documentation submitted by the family to be sufficient to justify this extension.

## 4. Suspension of Term

"Suspension" means stopping the clock on the term of a family's voucher after the family submits a Request for Lease Approval (RLA) or Request for Tenancy Approval (RTA).

The HA will suspend the term of the voucher from the date the "Request for Lease Approval (RLA) or Request for Tenancy Approval (RTA) is submitted to the HA until the date upon which the HA informs the family that the unit in question is "approved for occupancy" or is "denied."

The HA may also suspend the term of a voucher when funding for the program is inadequate to support the family's leasing a unit under the Section 8 program. In such cases the suspension shall commence and end upon the Housing Authority's notification to the applicant of such suspension or reactivation of the voucher.

## 5. Expiration of Voucher

The HA will require that the family reapply for Section 8 assistance when a voucher has expired.

#### **D. Request for Tenancy Approval**

The PHA will accept only one Request for Tenancy Approval at a time from a family for processing. If the unit is rejected, or the family prefers to select another unit, the family may submit another Request for Tenancy Approval only once the initial Request for Tenancy Approval has been processed by the HA or withdrawn by the family. RFTA's may be submitted by the family or on behalf of the family.

#### **E. Immediate Portability**

The HA will allow new admissions who did not reside in the HA's jurisdiction when application was made to move outside of the HA's jurisdiction upon receipt of the subsidy.

The HA will adhere to all policies and requirements as set forth in PIH 2016-09 as well as the "Housing Choice Voucher Program: Streamlining the Portability Process" referred to as the portability rule (80 FR 50564, published in the Federal Register on August 20, 2015) and the September 2, 2015 technical correction to the portability rule and or any superseding requirements.

However, since the Jurisdiction of the HA is the Commonwealth of Massachusetts the HA will often directly administer the voucher if it is within the Commonwealth rather than transfer the voucher holder to another for absorption or voucher administration.

#### **F. Assisting a Family That Claims "Illegal Discrimination" Has Prevented Them from Leasing a Unit**

In the event that a family informs the HA that they believe they have been illegally discriminated against, and, due to such discrimination, they were prevented from leasing a particular unit, the family will be provided with appropriate Discrimination Complaint Forms and/or information which include.

- a. A Massachusetts Commission Against Discrimination (MCAD) Information
- b. A HUD Discrimination Complaint Form

The family may also be provided with the telephone numbers for the following:

HUD's Fair Housing Enforcement Center - (800) 827-5005



MCAD - (617) 994-6000, TTY (617) 994-6196

Español, 中文, Kreyòl Ayisyen, русский, Português, etc. (617) 994-6071

In accordance with Housing Authority policy as set forth within this Plan, the Housing Authority may also provide additional search time on a voucher when a family claims illegal discrimination prevented the leasing of a unit.

## **G. Payment Standards**

### **1. Payment Standards**

The payment standards may be set by the HHA between 90% and 110% of the Fair Market Rent Level.

On an annual basis, the HHA shall review leasing rates and/or the rent burden of assisted families to determine if an adjustment in the payment standard is necessary to assist Section 8 participants. The HHA reserves to review and adjust the payment on a more frequent basis, if necessary, to assist program operations or the market evidences a need for adjustment.

As a final part of the analysis when determining if and where adjustments may occur the HA will review the budget to determine the impact of revised payment standard amounts in relation to serving existing households under the HCV program.

Although the town of Hudson constitutes the HA's principal area of jurisdiction, the HA has jurisdiction to administer the HCVP throughout the Commonwealth of Massachusetts and sets payment standards by area. The current payment standard is on file at the Housing Authority and is available for review.

For new HAP contracts, the HHA applies the payment standard in effect at the time of HAP contract execution.

### **2. Increases and Decreases in the Payment Standard during the Housing Assistance Payments Contract Term 24 CFR 982.505**

#### **a. Applying Increases in the Payment Standard**

For existing HAP contracts, when the HHA's payment standard increases, the HHA will use the increased payment standard amount to calculate the monthly housing

assistance payment for each program participant beginning no later than the earliest of:

Change in Gross Rent/Family Share: the effective date of an increase in the gross rent that would result in an increase in the family share;

Interim or annual reexamination: the family's first regular or interim reexamination;

One year after effective date: One year following the effective date of the increase in the payment standard amount.

#### **b. Applying Decreases in the Payment Standard**

When the HHA's payment standard decreases while the family continues to reside in a particular unit for which the family is receiving assistance, the HHA will hold the family harmless and not to reduce the payment standard amount used to calculate the subsidy for the family as long as the family continues to reside in the unit for which the family is receiving assistance.

#### **c. Change in Family Unit Size**

If the family unit size either increases or decreases during the HAP contract term, the new family unit size will be used to determine the payment standard amount for the family at the family's first regular reexamination following the change in family unit size. This is still subject to the requirement that actual unit size will be used if it smaller than the family unit size.

### **3. Reasonable Accommodation Exception Payment Standards**

On a case-by-case basis, PHAs are required to provide reasonable accommodation exception payment standards for a person with a disability in accordance with 24 CFR part 8. For exception payment standards that do not exceed 120 percent of the applicable FMR, the HHA may approve a payment standard as a reasonable accommodation without prior notification to HUD or HUD approval.

For exception payment standards greater than 120 percent of the applicable FMR as a reasonable accommodation for a person with a disability in accordance with 24 CFR part 8, the HHA will request HUD approval for the reasonable accommodation.

#### **4. Utility Allowance Schedule**

The HAs utility allowance schedule is based upon the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality.

The HA established the Utility allowance schedule taking into consideration normal rate of consumption for the area and current utility rates.

The HA reviews the schedule of utility allowances each year and revises the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The HHA will use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under the PHA subsidy standards.

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities to live in a larger unit, the PHA will apply the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

For units located outside of Marlborough or Hudson the HHA will use the utility allowance chart of the local PHA. If no such PHA exists, the HHA will adopt the payment standard adopted by the nonprofit agency administering HCVs for the Department of Housing and Community Development.

### **H. Method for Determining Rent Reasonableness**

#### **1. Factors for Consideration in Rent Determination**

The HA' s methodology for ensuring that the rent to an owner is reasonable in comparison to similar unassisted units takes into consideration the following factors: location, quality, size, unit type, age, amenities, housing services, maintenance and utilities provided by the owner and value of accessibility.

To determine the rent for a unit, the HA will review the following information for the unit in question.

Location: (by zip code or neighborhood) - comparisons will be made to units in the same or similar neighborhoods;

Quality: ("A" rating – exceeds HQS, "B" rating meets HQS);

Size: (Most rooms are over 100 square feet - "A" rating), (Average rooms are 70- 100 square feet - "B" rating);

Unit type: (duplex / 3 decker / garden / townhouse / single family / high rise) - comparisons will be made to units of a similar type when available;

Age: (New: less than ten (10) years - "A" rating), (Old: over ten (10) years - "B" rating);

Amenities: (i.e. dishwasher, washer / dryer, newer carpet, refinished hardwood, off street parking, pantry or abundant shelving and cabinets, balcony, patio, deck, porch, alarm system, modern appliances, high quality floors or wall coverings, large and well-maintained yard) - (multiple amenities will result in an "A" rating);

Housing Services and Maintenance: concierge, maintenance or other in-house services such as on-site management staff, desk service, maintenance staff, security guard or janitorial service provided by owner - (services will result in an "A" rating in this category);

Utilities: (highest cost not included in rent / highest cost is included in rent). For comparison purposes a gross rent will be calculated for units where utilities are included in the rent to ensure that rental rate comparisons are properly made.

Value of Accessibility: For the family that requires an accessible unit, the accessible features may justify a higher rent. For such families, the rent reasonableness determination will take those features into account. In a community where there are few such units, the PHA may be justified in allowing a higher rent.

This "value of accessibility" factor will be taken into consideration on a case-by-case basis when the family indicates that the unit has certain qualities which are not available in other units which are required as a result of a disability.

This information is then used to establish the reasonable rent by comparing it to the market comparables as described below.

This “value of accessibility” factor will be taken into consideration on a case-by-case basis when the family indicates that the unit has certain qualities which are not available in other units which are required as a result of a disability.

This information, derived from factors 1-9 above, will then be compared to the information on file at the HHA. Comparables utilized to establish the reasonable rent and will be documented. The reasonable rent will be offered to the owner.

Finally, even when the market comparables on file at the HHA are higher than the rent which is received by an owner for a "like kind" unit within the same building, the HHA will only approve a rent equal to that approved for the "like kind" unit within that same building. However, if exceptional circumstances apply (i.e., the unit in question is more desirable because it was recently refurbished or the tenant in the "like kind" unit has been in place for many years, the HHA may approve the higher rent).

The information is collected by the HHA's with the completion and review of:

- The review of the rent roll, if submitted by landlord. This contains information regarding other unassisted units on the premises.
- The completion of a Go Section 8 Rent Reasonableness Comparison Form by HHA staff.

This information is then used to establish the reasonable rent by comparing it to the market comparables as described below.

## **2. Source of Market Comparables**

The HHA has contracted with GoSection8.com to collect market comparables for rent reasonableness determinations. The process used by GoSection8.com incorporates ongoing real time data mining of open market rental data from over 300 rental listing websites and newspapers. This ensures a rental database that is always current and statistically accurate. The data is harvested both electronically with proprietary technology as well as manually by dedicated data analysts. The open market listings are appended with local tax assessor information along with market assumptions on utilities and amenities thereby assuring an accurate and verified rental comparable.

The GoSection8.com rent reasonable program uses an automated hedonic valuation model (in this context hedonic price analysis determines how the price of a unit varies

with its characteristics) to identify and compare the program subject unit to the most similar private market rental property units within a specific geographic radius.

- **Dollar for Dollar Adjustments** - GO8 uses a true market-based methodology which overcomes the inherent artificial numerical “value” assigned to point based comparables because of unknown variables. GoSection8 fine-tunes the rent reasonableness process, allowing dollar for dollar adjustments based on the critical market factors that impact rent ensuring an “apples-to-apples” rent comparison.

- **Integrated Comparable Rental Data** - GoSection8 gathers, organizes and maintains a database of market-based comparable units. The primary source of comparable data included in the GoSection8.com product is open market rental data. GoSection8.com incorporates ongoing real time data mining of open market rental data from over 300 rental listing websites and newspapers. This ensures a rental database that is current and statistically accurate. The data is harvested both electronically with proprietary technology as well as manually by dedicated data analysts. The open market listings are appended with local tax assessor information along with market assumptions on utilities and amenities thereby assuring an accurate and verified rental comparable.

Assisted units are not used in making a rent reasonableness determination. Determinations are based upon comparison of the HUD required factors to private market units. Comparables utilized to establish the reasonable rent will be documented and maintained in the tenant file. A Rent Reasonable Certification containing the three most similar and credible comparables which accounts for all 9 of the factors set forth in 24CFR 982.507(b) will be maintained in each tenant file.

A Rent Reasonable Certification containing the three most similar and credible comparables which accounts for all of the factors set forth in 24 CFR 982.507(b) will be maintained in each tenant file.

The Certification will contain the actual listing information in the system provided for each comparable unit. A copy of this approval will be maintained in the tenant file. The reasonable rent will be offered to the owner.

Finally, even when the market comparables on file at the Housing Authority are higher than the rent which is received by an owner for a "like kind" unit within the same building, the HA will only approve a rent equal to that approved for the "like kind" unit within that same building. However, if exceptional circumstances apply (i.e. the unit in question is more desirable because it was recently refurbished or the

tenant in the "like kind" unit has been in place for many years, the HA may approve the higher rent).

### 3. Limitations Regarding Rent to Owner in Subsidized Projects

As stated in 24 CFR §982.521, when a family leases a unit under the Housing Choice Voucher program in an insured or non-insured Section 236 project, Section 202 project, Section 221(d)(3) BMIR project, or a Section 515 project of the Rural Development Program, the rent to owner must equal the rent set by the respective subsidy programs and be reasonable in comparison to rent for other unassisted units. Thus, the approved rent will be the lower of the reasonable rent or the rent set for the program. This determination is however not subject to the prohibition against increasing the rent to owner during the initial lease term (see [§ 982.309](#)).

### 4. Prohibition Against Other Housing Subsidy

The federally subsidized projects referenced above may, in some circumstances, contain units that also receive the benefit of a State, local, or federal, housing subsidy (i.e., Section 8 project-based housing assistance payments contract). Such units are ineligible units under the HCV program.

In accordance with program regulations at 24 CFR §982.352 (c), a HCV family may not receive the benefit of tenant-based assistance under the HCV program for a HCV family may not receive the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit.

These units include:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;

- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities;
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, “housing subsidy” does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

## 6. When Rent Determinations Shall Occur

This same rent reasonableness process will be utilized when:

1. New Admissions and Moves;
2. the owner requests a rent increase; or
3. there is a 10 percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or
4. directed by HUD.

The HHA may also redetermine the reasonable rent at any other time.

### **I. Disapproval of Owners**

#### **1. Mandatory Denial**

The Housing Authority will not approve a unit if:

The HA has been informed, by HUD or otherwise, that the owner is debarred, suspended, or subject to limited denial of participation under 2 CFR part 2424.

When directed by HUD, the HA will not approve a unit if 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 such action is pending.

When directed by HUD, the HA will not approve a unit if a court or administrative agency has determined that the owner violated the Fair Housing Act or other Federal Equal Opportunity Requirements.

The HHA will not approve a unit if the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family unless to do so will provide a reasonable accommodation for a family member who is a person with a disability.

## 2. Discretionary Denial

The Housing Authority may deny approval to lease a unit from an owner for any of the following reasons:

1. The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
2. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal Housing Program.
3. The owner has engaged in any drug related criminal activity or any violent criminal activity.
4. 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 Programs
5. The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other Federally Assisted Housing Program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - threatens the right to peaceful enjoyment of the premises by other residents;
  - threatens the health and safety of other residents, of employees of the HA, or of owner employees or other persons engaged in management of the housing;

- threatens the health or safety of or the right to peaceful enjoyment of their residency by persons residing in the immediate vicinity of the premises; or
  - engages in drug related criminal activity or violent criminal activity.
6. The owner has not paid state or local real estate taxes, fines or assessments.
  7. The owner has a history or practice of renting units that fail to meet State or local housing codes.
  8. Any other reasons determined reasonable by the Housing Authority and prohibited by law.

When the HA decides not to execute HAP contracts with an owner for reasons described in this section of the administrative plan, the decision affects only prospective future contracts. Participants residing in units belonging to the identified owner generally will not be asked to move solely because of a decision to disapprove the owner as described within this plan.

However, when a Housing Assistance Contract with an owner is terminated for other reasons such as violation of Housing Quality Standards which is not tenant caused the Section 8 participant will be issued a voucher and required to relocate to continue to receive Section 8 assistance.

In these cases, in advance of owner disapproval, a letter will be sent to the owner indicating that the HAP contract will be terminated (or his/her approval as an owner is denied or terminated) with the reasons therein stated. In cases of HAP contract termination, the effective date of the termination will be determined by the Executive Director taking into consideration the circumstances of the assisted family.

For purposes of this section “owner” includes principal or other interested party.

Nothing in this section of the Administrative Plan is intended to give any owner any right to participate in the program.

## **VI. Program Participation**

### **A. Annual Recertification, Interim Reporting and Non-Interim Examinations Reporting and Processing Policies**

**A number of the provisions herein are effective upon the date established by HUD and HHA to implement HOTMA Sections 102 and 104 and will not be effective until that time.**

#### **1. Mandatory Annual Examination**

The HHA must conduct a reexamination of the Family's income and composition at least annually.

The HHA will contact the Head of Household in writing three to four months before the anniversary of their last annual recertification by sending the Family an appointment letter. The appointment letter requests that the Head of Household bring the necessary verification of Annual Income and Family Composition. The appointment letter also lists the required documentation and information

Failure to comply with the obligation to supply information may result in the termination of the Family's assistance.

*The following para is effective upon Notice by the HHA of HOTMA 102 104 compliance until that time The HHA will use anticipated income in accordance with prior HUD requirements:*

During annual reexaminations, the HHA must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA policies and HUD regulations, must be considered. Income from assets is always anticipated, irrespective of the income examination type.

For Annual recertification the effective date of the recertification is the anniversary date of the last annual recertification.

#### **2. Interim Reporting and Processing Policies - Current Rules**

The following rules shall apply until such time as HUD indicates that new HOTMA recertification requirements apply to the HHA.

All changes in income and family composition must be reported to the HA within 10 days of the change (for income changes, birth, adoption court awarded custody) or otherwise advance of the proposed change (i.e. request to add a family member). Requests for additional members will be considered in accordance with PHA policy.

Interim examinations will be required in the following instances:

- i. When a family receives an increase of more than 25% in total monthly income, however, the Housing Authority shall be notified of any change in income;
- ii. When a family's expenses decrease by more than 10%;
- iii. When a household member is leaving the dwelling unit;
- iv. When the family is breaking up;
- v. When the family is requesting that a new family member be added to the household composition.

In all cases, the request for an interim examination must be made by the family, in writing, to the Housing Authority.

Where applicable information will be requested and where needed an appointment will be scheduled by the Housing Authority to conduct the interim examination. This interim examination will cover only the new information being reported and accordingly only information related to such changes will be reviewed and verified.

Nothing in this section should be construed to limit the ability to require an interim examination by the Housing Authority in other circumstances when not prohibited under federal regulations, HUD guidance or other applicable law.

### **3. Manner of Reporting and Effective Date of Recertification**

It is obligation of the family to report these changes to the Housing Authority in advance where possible and within ten (10) business days for items that are not known in advance. It is the policy of the HA to require that the family report these changes in a

timely manner and in writing. Failure to do so may result in the family's termination from the Section 8 program for violation of family obligations.

After the family has reported a change to the HA appropriate verifications will be requested for submission to the HA and then the HA will perform the interim recertification. The HA will make the interim determination within a reasonable time after the family request.

The effective date of the interim recertification will depend on the timeliness of the family's reporting of the change to the HA, the Housing Authority's receipt of requested documentation and appropriate verification.

For decreases, the interim determination will generally be effective on the first of the following month. For increases, the interim determination will generally be effective on the first of the second month. In both instances this effective date of the determination is provided that the information was reported to the HA in a timely manner and that the family cooperated with the Housing Authority's ability to receive all necessary documentation and verification.

For decreases the HA will not make the recertification retroactive if the family failed to submit the requested documentation in a timely manner or failed to cooperate with the HA in relation to the reporting or verification requirements.

Increases will be made retroactive to the time period that it would have been effective if it had been reported in a timely manner.

#### **4. Optional Interim Reporting**

Upon written request by the family, the Housing Authority will schedule an interim examination to address a decrease in income, increase in allowable expenses, or other relevant changes in family circumstances. The time frames set forth in the Mandatory Reporting Section above shall also apply in cases of an optional interim recertification.

In exceptional circumstances such as a pandemic, state of emergency, illness or hospitalization of the family member which would have reported the decrease in income or increase in allowable expenses the HHA may waive the requirement that the request be made timely. In that instance the HHA may make a decrease in tenant payment retroactive to the time period that it would have been effective if it had been reported in a timely manner. This shall be done at the sole discretion of the HHA.

#### **5. Interim Reporting and Processing Policies – New Rules**

**This section will be made effective upon the HHA's HOTMA 102 104 compliance date which will be established by HUD and the HHA.**

Families must report household composition changes and changes to income and deductions consistent with HUD and PHA requirements. This policy describes how soon families must report changes and the consequences of untimely reporting as it relates to effective dates. Other consequences are described in the section addressing program termination.

a. When and What to Report

All changes in income, deductible expenses and family composition must be reported in writing to the PHA within 10 days of the change (for income changes, birth, adoption, court-awarded custody) or otherwise advance of the proposed change (i.e., request to add a family member). Requests for additional members will be considered in accordance with PHA policy.

b. Interim examinations will be required in the following instances:

- i. When a family reports a change in income that will result in an increase of 10% or more in the family's annual adjusted income, however, the Housing Authority shall be notified of any change in income;

Earned income will not be considered when determining if the 10% threshold is met unless the family had an interim reexamination performed for a decrease in annual adjusted income. The adjustment may have been due to earned, unearned or combined income.

While families are still required to report any increase in annual adjusted income, no interim reexaminations will be conducted due to increases in annual adjusted income timely reported in the 3 months before the next regular annual examination effective date. Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies.

The HHA will look at the earned and unearned income changes independently to determine if an interim reexamination should be performed.

*A series of smaller reported increases in adjusted income over the examination cycle may cumulatively meet or exceed the 10-percent increase threshold, at which point the HHA must conduct an interim reexamination.*

- ii. When there is an increase in family size, that will result in an increase of 10% or more in annual adjusted income.

Note: If the increase in annual adjusted income is less than 10%, the HHA will perform a non-interim to add the new family member.

- iii. When a family reports a change in income that will result in a decrease of 10% or more in the family's annual adjusted income.

**(ii) The HHA will not conduct a recertification if the HHA estimates that the family's annual adjusted income will decrease by an amount that is less than 10% of the family's annual adjusted income.**

**(iii) When there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount.**

Note: If the net effect of the changes in annual adjusted income due to a decrease in family size results in an increase in annual adjusted income, then PHA will process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income. (see below Non-Interim Reexamination Transactions).

The above changes may be as a result of:

An increase in the family's expenses, when a household member is leaving the dwelling unit; when the family is breaking up, when the family is requesting that a new family member be added to the household composition.

In all cases, the request for an interim examination must be made by the family, in writing, to the Housing Authority.

The HHA calculates percentage increase up or down to the nearest whole number.

An appointment will be scheduled by the Housing Authority to conduct the interim examination. Unless otherwise required, this interim examination will cover only the new information being reported and accordingly only information related to such changes will be reviewed and verified.

Nothing in this section should be construed to limit the ability to require an interim examination by the Housing Authority in other circumstances when not prohibited under federal regulations, HUD guidance or other applicable law.

c. Recertification Effective Dates

The HHA will conduct any required interim reexamination within a “reasonable time.” This will be 30 days after changes are reported provided that the family cooperates with requests for needed information.

The effective date of the interim recertification will depend on the timeliness of the family’s reporting of the change to the HHA, the Housing Authorities receipt of requested documentation and appropriate verification. The HA will make the interim determination within a reasonable time after the family request.

For decreases, the interim determination will be effective on the first of the following month.

For increases, the interim determination will be generally effective on the first of the second month.

In both instances this effective date of the determination is provided that the information was reported to the HHA in a timely manner and that the family cooperated with the Housing Authority’s ability to receive all necessary documentation and verification.

If the family failed to report changes in a timely manner the HHA will only apply retroactive decreases in cases of reasonable accommodation or VAWA.

The HHA will also inform the owner of any adjustment in Total Tenant Payment and Housing Assistance Payment.

**7. Non-Interim Reexamination Transactions –New Rules**

**This provision is not effective until HUD instructs the HHA To implement the applicable sections of HOTMA 102/104.**

Changes within the household that still need to be reported to HUD that do not require an interim reexamination are called non-interim reexaminations. They are as follows:

Adding or removing a hardship exemption for the child-care expense deduction;



Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction:

Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;

Adding or removing a minimum rent hardship;

Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);

Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.

Adding a family member and the increase in adjusted income does not require an interim reexamination under the final rule;

Removing a family member and the increase in adjusted income does not require an interim reexamination under the HOTMA final rule;

Adding/updating a family or household member's Social Security number;

Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases)

Implementing an update to the payment standard that does not correspond with an interim or annual reexamination.

## **8. Change in Family Unit Size and Payment Standards and Ongoing Program Participation**

### **a. Family Unit Size**

The family unit size (voucher bedroom size) is changed at the family's first annual reexamination following the change in family size. This may occur due to change in family composition or change in HA subsidy standards.

**(ii) Overhoused**

If the family is over housed due to a change in family unit size, the family may remain in the unit or relocate at the election of the family. The voucher payment standard based upon the new family size will apply at the first annual reexamination.

**(iii) Underhoused**

If the family is under housed due to the change in family unit size, the family may remain in the unit provided that it meets minimum size standards under the Massachusetts State Sanitary Code and HQS and HUD HQS standards when applicable.

If the unit does not meet minimum standards under the Massachusetts State Sanitary Code and HUD HQS standards when applicable, the family will be required to relocate.

**b. Payment Standard Amount**

**i. Payment Standard Increases**

If a payment standard is increased, the higher payment standard is first used in calculating the HAP beginning at the effective date of the family's first regular (annual) reexamination on or after the effective date of the increase in the payment standard amount. Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

**ii. Payment Standard Decreases**

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the HHA will not reduce the payment standard amount

used to calculate the subsidy for the families under HAP contract for as long as the HAP contract remains in effect.

## **B. Admission of Additional Members to an Existing Household**

### **1. General Additions**

The HA, at its sole discretion, may approve the addition of persons to the assisted family's household at the written request of the head of household. Approval of such additional family members does not require the family to meet any income limits. Federal income limits are applicable only at the time of initial admission to the HCV program.

The HA will allow additions to the family in the following instances birth, adoption, court awarded custody. A person with a disability may request the addition of a person or persons to the household as a reasonable accommodation. Additional requests may be considered by the HHA on a case-by-case basis.

The HA prohibits the addition of any person to the household who would normally be denied initial admission to the program in accordance with this Administrative Plan. An additional person may not be added to the household until he or she has met all program requirements, including providing social security numbers, information on citizenship status, appropriate income release forms, and the Criminal Offender Record Information check where applicable based upon the age of the proposed new family member.

In the tenant-based program, prior to allowing the addition of the household member, the existing head of household must secure the owner's written permission to add the new member to the household. If this cannot be obtained, the original head of household may be given a voucher to search for housing which will accept the newly designated household. The HHA may wait and issue the voucher after such time as the term of the lease has expired unless the landlord agrees to release the tenant prior to the expiration of the term.

Upon approval by the HA, which shall always have a prospective effective date, the new household member is immediately subject to all the requirements, and receives all the benefits, of the assisted housing program.

## 2. Foster Child and Adult

The HA, at its sole discretion, may approve the addition of a foster child to the assisted family's household at the written request of the head of household.

Approval of a foster child will generally be granted if:

- The Department of Social Services has verified that such is an official foster care placement;
- No extenuating circumstances which would lead the Housing Authority to believe the addition of the foster child would be inappropriate, and;
- Documentation of the above is provided and verified by the Housing Authority.

A foster adult is usually a person with a disability, unrelated to the tenant family, who is unable to live alone. Approval of a foster adult will generally be granted if:

- Certification from a Social Service Agency that the adult cannot live alone;
  - No extenuating circumstances which would lead the Housing Authority to believe the addition of the foster adult would be inappropriate, and;
  - Documentation of the above is provided and verified by the Housing Authority.
- Unless prohibited by law, the provisions set forth in section, General Additions above also apply in the case of HA approval of Foster Child or Adult.

## 3. Live-in Aide

### a. Approval of a Live-in Aide

A live-in aide is a person who resides with a person or persons who are elderly, near elderly, and/or have a disability [24 CFR 5.403].

The live-in aide:

- Must be essential to the care and well-being of the person(s).
- Must not be obligated for support of the person(s).
- Would not be living in the unit except to provide necessary supportive services.

The HA may approve a live-in aide for a family upon verification of need by a qualified health care or service provider subject to *c. Refusal to Approve a Live-In Aide*, of this Administrative Plan.

A live-in aide is not required to have citizenship or eligible immigration status. The aide must, however, provide a valid (unexpired) photo identification card that at a minimum indicates the aide's name and birth date. If the photo identification is not of government issue, the aide must also provide one additional form of identification. Identification documents must be attached to any request for a criminal history check.

For information concerning the appropriate family unit size when the HA has approved a live-in aide for a family see Section addressing Subsidy Standards within this Administrative Plan.

Unless prohibited by law, the provisions set forth in section A. General Additions above also apply in the case of HA Approval of Live in Aide.

**b. Identification Required for Live-in Aide**

The HA provides an additional bedroom to the family unit size to accommodate an approved live-in aide. In order for a family to receive a voucher with an additional bedroom for a live-in aide, the aide must:

- Personally appear at the HA offices;
- Provide a picture ID;
- Complete a certified statement indicating that the assisted unit shall be the aide's primary residence and that the individual meets the regulatory definition of a live-in aide;
- Sign a Family Obligations statement separately from the family members; and
- Undergo a criminal history check and any other procedures required by the Administrative Plan to determine whether the aide should be allowed in the household.

The HA shall not issue a voucher of a larger bedroom size to accommodate a live-in aide unless and until an aide has met the above requirements and has passed a criminal history check.

**c. Refusal to Approve a Live-in Aide**

The HA may refuse to approve or may withdraw its approval of a particular person as a live-in aide for the reasons indicated in 24 CFR part 982, or if the live-in aide (a member of the household) is barred from participation in assisted housing programs for any of the reasons stated (and in accordance with the time frames expressed) within the sections covering denial and termination this administrative plan. The date on which the applicant or participant requests HA approval of the person to

become a live-in aide or the date the HA becomes aware that the aide was debarred, whichever is later, is used to determine whether the period of debarment has elapsed.

At any time, the HHA can refuse to approve, or withdraw approval of, a live-in aide if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the HA or to another Public Housing Agency (PHA) in connection with Section 8 or public housing assistance under the 1937 Act; or
- The person fails to comply with HA requirements for a live-in aide including the requirements contained in this Administrative Plan.

The HA may require a participant to terminate the services of a particular live-in aide as a condition of continued assistance or may require an applicant to terminate the services of a particular live-in aide as a prerequisite to issuing a voucher or to approving a tenancy.

Any refusal or withdrawal of approval will be in writing and will allow the applicant or participant a thirty-day period in which to locate a replacement aide.

#### **4. Caretakers for a Child**

If the head of household or co-head are no longer in the household, such as in the case of incarceration, and his or her child remains in the unit, the HA will take the following actions.

- a. If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- b. If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the

caretaker's role is temporary. In such cases the HA will extend the caretaker's status as an eligible visitor.

- c. At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- d. During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Unless prohibited by law the provisions set forth in section 1, General Additions<sub>above</sub> also apply in the case of HA approval of HA Approval of Caretaker for a Child.

### **C. Guest Policy**

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has express or implied authority to so consent. A guest can remain in the assisted unit no longer than 7 consecutive days or a total of 30 cumulative calendar days during any 12-month period. Otherwise, the individual will be considered an unreported household member and the family may be terminated from the program for failure to report an addition to the household.

A family may request an exception to this policy for valid reasons. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

This is HHA policy relative to Section 8 program rules. To the extent that the landlord has a more restrictive policy within the assisted lease, the tenant shall still be bound by the terms of the lease with regard to the guest policy. To the extent the landlord has a more lenient policy the HA policy shall continue to apply to the assisted tenancy.

### **D. Relocation Policy**

#### **1. Permitted Relocation**

A family may move to a new unit if:

The assisted lease for the old unit has terminated. This includes a termination because:

The PHA has terminated the HAP contract for the owner's breach; or

The lease has terminated by mutual agreement of the owner and the tenant.

The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant. In such cases the move will be permitted if such notice or owner action is not based upon the family's act or failure to act and the HHA is not currently proceeding to terminate assistance on such basis.

The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach, or otherwise).

The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or Stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or Stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit. If the family wants to move to a new unit, the family must notify the HA and the owner before moving from the old unit.

## 2. Mandatory Denial of a Family Request to Move

Unless there is an exception under VAWA or other applicable law, moves must be denied for families that are evicted for serious violation of the lease.

## 3. Discretionary Denial of a Family Request to Move

- a. The HA may deny a family's request to move due to the family's action or failure to act as described in 24 CFR § 982.552 or 982.553. It is the policy of the HA to deny moves when violations of these regulations have occurred.
- b. The HA may deny a family's requests to move due to insufficient funding in limited circumstances as described in this Administrative Plan.



- c. The HA may deny a family's request to move when the request to move does not comply with the PHA's policies on the timing and frequency of moves in accordance with 24 CFR § 982.354(c)(2). These policies include prohibiting any move by the family within the initial lease term and prohibiting more than one move by the family during any one-year period.

## **9. Initial Term of Lease**

Currently, the HA only approves leases with an initial term of one (1) year. Thus, the HA will require the family to remain in place during the initial year of an assisted tenancy, except in the following circumstances:

The owner is in breach of the Lease Agreement and/or the HAP Contract;

Extenuating circumstances have been brought to the attention of the HA by the family and the HA determines that it is appropriate to grant approval to allow the family to move during the initial year of the assisted tenancy. The Housing Authority will take into consideration requests for Reasonable Accommodation and any applicable provisions of the Violence Against Women act where applicable in making determinations.

Approval will be provided in writing by the Housing Authority. In cases where written approval is not provided, the family will be in violation of this requirement.

## **5. Extended Term of Lease**

The HA will only allow the family to relocate during the extended term of the lease at the end of the extended term which will vary based upon the terms and conditions of the lease in question. However, if the landlord releases the tenant in writing from the terms of the lease relative to term and notice requirements, the family will not be denied relocation on this basis.

Approval will be provided in writing by the Housing Authority. In cases where written approval is not provided, the family will be in violation of this requirement.

## **E. Restrictions on Moving When the Family Owes Money**

For so long as the family owes the HA money, the family shall not be provided a voucher to move except in cases in which:

- The family is being evicted due to circumstances which of themselves would not subject the family to termination of participation, or
- The HA is terminating the HAP contract due to an owner's breach of the contract (including HQS violations that are the responsibility of the owner), or
- A move from the premises is required by the Violence Against Women Act or other federal, state or local law or ordinance, or for the physical safety of the family, or
- A move from the premises is required as a reasonable accommodation.

#### **F. Family Absence from the Unit**

The family may be absent from the unit for brief periods.

If a family will be absent from the unit for more than sixty (60) consecutive days, such family must receive advance written approval from the Housing Authority, or such family will be considered absent from the unit for more than a brief period and Housing Assistance payments will be terminated.

In no instance will approval for absence from the unit of more than one hundred eighty (180) consecutive days be granted.

The Housing Authority may, in its sole discretion, under compelling circumstances, allow a family who necessitated absence from the unit for more than 180 consecutive calendar days to be readmitted to the Section 8 Program, provided that the family still meets all eligibility criteria for the Section 8 Program. This allowance will generally only be granted when a medical necessity, domestic violence keeping in mind any applicable provisions of the Violence Against Women Act, in cases of reasonable accommodation or other compelling circumstances were the cause for absence from the unit. In such cases the HA will take into consideration whether the family acted in a responsible manner in an attempt to fulfill their obligations in relation to the Section 8 program.

When such approval is granted, the family must complete all required documents and submit to all screening of applicants to the program except that the income limit used for re admission may be the low-income limit and there will be no screening for any waiting list preferences if applicable.

## **G. Who Remains on the Program if the Family Breaks Up**

The Housing Authority is bound by the court's determination if a court determines the disposition of property between members of the assisted family in a divorce or separation decree.

When no such court determination has been made, the Housing Authority shall determine which members of an assisted family will continue to receive assistance if an assisted family breaks up. In making this determination, the HA shall consider the interests of all assisted family members. The HA will decide which family member receives the voucher on a case-by-case basis, and the following factors may be included in the Housing Authority's decision:

- the interests of any minor child/children;
- the interests of ill, elderly, or disabled family members;
- whether family members were forced to leave the unit as a result of actual or threatened physical violence, by a spouse or other member of the household, (the HA shall take this factor into consideration regardless of whether the individual(s) leaving the unit are the victim or the perpetrator) and any applicable provisions under the Violence Against Women Act.
- family members remaining in the original assisted unit;
- if the sole remaining members of the household are all minors, an adult guardian of such minor children may be added to the family composition as the new "head of household" and;
- any other factors which in the discretion of the Housing Authority will affect the fairness and reasonableness of the determination.

Pursuant to PIH 2017-08, the PHA may have a family break-up policy allowing for assistance to be provided to both persons seeking VAWA protection. The HHA will adopt such a policy in limited circumstances as follows: In cases where there is a family break up due to Domestic Violence Dating Violence Sexual Assault, or Stalking and the victim and perpetrator are both family members on the lease, household composition and residing in the assisted unit but the HHA cannot be assured to a reasonable level to whom the voucher should be provided (i.e., both claiming victim status), the HHA may provide assistance to both parties. The provision of voucher assistance to both parties may be temporary or permanent. If the Housing Authority is able to determine at a later date with

reasonable likelihood which individual has victim status, the individual with perpetrator status may be terminated from the HCV program.

## **VII. Informal Review and Hearing Procedures**

### **A. Informal Reviews for Applicants**

#### **1. Right to an Informal Review**

Applicants who are determined Ineligible for Admission, issued a Notice of Withdrawal, or denied Priority status or Preference(s) by the HHA will be sent a notice which:

- a. Informs the Applicant of the reason(s) for Ineligibility, withdrawal or denial of Priority status or Preference(s);
- b. Advises the Applicant of his/her right to contest the decision in an informal review provided a written request for a review is received within twenty (20) calendar days of the date the Notice of Denial is issued. The request must be in writing and must state clearly the basis for requesting the informal review and be sent to the address provided on the notice;
- c. Advises the Applicant of his/her right to contest the CORI information in accordance with Federal and/or State law if that is the basis for determination of Ineligibility;
- d. Advises the Applicant that if s/he has a disability, not previously disclosed, that the disclosure of such condition would lead to the consideration of Mitigating Circumstances and/or a Reasonable Accommodation, if related to the disability. Advises the Applicant that if s/he requests a Reasonable Accommodation at the time of or after requesting an informal hearing, the hearing officer will make the decision regarding the accommodation;
- e. Advises the Applicant that if s/he has been the victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking or where applicable human trafficking, that such situations could be considered as Mitigating Circumstances if they are directly related to the negative information. Advises the Applicant that if s/he requests consideration of Mitigating Circumstances at the time of or after requesting an informal review, the hearing officer at the review will make the decision regarding the circumstances;

- f. Provides a description of the HHA's informal review process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal review, review the contents of their file in advance of the hearing, and the right to submit additional documents and evidence and to testify at the review;
- g. The hearing officer may consider mitigating circumstances, or a reasonable accommodation presented at the hearing when determining whether or not to deny the assistance of an applicant.

## **2. Time to Request an Informal Review**

The time to request an informal review shall be ten (10) days from the date of notice of withdrawal, denial of assistance to the Family, denial of Priority and/or Preference, denial of a place on the appropriate waiting list, or denial of issuance of a Voucher, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice

of denial of assistance for any Family member. The HHA will grant a request for a hearing when an Applicant submits a late request, but submits evidence of compelling circumstances, such as a health condition or Domestic Violence, Dating Violence, or Stalking, or Human Trafficking where applicable that prevented the Applicant from requesting a hearing within ten (10) days.

## **10. Scheduling the Informal Review**

When the HHA receives the Applicant's written request HHA will schedule an informal review.

Notice of Informal Review. The HHA will notify the Applicant in writing of the date, time and place of the review. The HHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review their file, request a Reasonable Accommodation and right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for the Applicant and the HHA.

If an Applicant requests a Reasonable Accommodation at the time of or after requesting an informal review, the hearing officer will make the decision regarding the accommodation.

Default. The HHA will withdraw an Applicant from the waiting list if the Applicant does not attend the informal review and did not attempt to reschedule twenty-four (24) hours prior to the review.

The HHA will reschedule an informal review when an applicant submits evidence of compelling circumstances, such as a health condition or Domestic Violence, Dating Violence, Sexual Assault, or Stalking, that prevented the applicant from attending the hearing on the scheduled date.

#### 4. Applicant Rights During the Informal Review

During the hearing, the HHA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, or denial of Priority status or Preference(s). The Applicant will have an opportunity to present evidence and testimony rebutting the basis for the HHA's determination.

#### 5. Due Process Requirements

The informal review will conform to the following due process requirements:

- a. A person who did not participate in the original decision or subordinate of the person must conduct the review.
- b. The hearing officer must base the decision solely on evidence presented at the hearing as well as any evidence previously received by the HHA.
- c. The Applicant and/or his/her representative has a right to inspect the file prior to the review, provided the Applicant provides HHA with written authorizations permitting the representative to have access to the contents of the Applicant's file and/or CORI.
- d. Either the Applicant or the HHA may request after close of the review that the record remain open for a reasonable time for submission of new evidence. At the discretion of the hearing officer, the date may be only extended for good cause (such as the inability of the Applicant for reasons outside his/her control to provide a particular document by the requested date). Written notice of the record being held open, the cause for an extension if any, and the date the record will close will be given to the Applicant and kept in the HHA case file.

## 6. Informal Review Decisions

After the informal review, all Applicants will be sent an “Informal Review Decision” from the HHA hearing officer. This notice shall:

- a) Provide a summary of the review;
- b) Provide the decision of the hearing officer, together with findings and determination;
- c) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision;
- d) Reversal of HHA's Determination of Ineligibility

### **a. Reversal of HHA Determination**

If the hearing officer reverses the determination to deny the Applicant assistance or Priority or Preference status, the application will return to its appropriate place on the waiting list(s) for all programs previously selected by the Applicant. The HHA will restore the status or position in accordance with the determination.

### **b. Confirmation of the HHA's Determination of Ineligibility**

If the decision or an appeal upholds the determination of Ineligibility the Applicant will be denied participation in the Section 8 Program. The family's name will not be removed by the Housing Authority from the Centralized Section 8 Waiting List because the family may be eligible under another participating Housing Authority's policies. However, the family will not be again selected by the Housing Authority unless the family has been withdrawn from the Centralized Section 8 Waiting List and a new application has been submitted.

If the decision or an appeal upholds the determination of Ineligibility based upon a family being over income for the Section 8 Program, program, the name will be removed from the Centralized Section 8 Waiting List if the Housing Authority making the determination is in the jurisdiction with the highest income limits of those Housing Authorities participating in the Centralized Section 8 Waiting List process. Otherwise, the family's name will not be removed by the Housing Authority from the Centralized Section 8 Waiting List because the family may be income eligible under another participating Housing Authority's policies. However, the family will not be again selected by the Housing Authority unless the family

has been withdrawn from the Centralized Section 8 Waiting List and a new application has been submitted.

### *B. Informal Hearings for Participant Families*

#### **1. When an Informal Hearing must be offered to a Family**

The HHA will offer a Family participating in the program an informal hearing for the following reasons:

- a)* A determination of the Family's annual or adjusted income, and the use of such income to compute the Housing Assistance Payment;
- b)* A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from HHA allowance schedule;
- c)* A determination of the Family Unit Size under the HHA Subsidy Standards;
- d)* A determination to terminate assistance for a Participant Family because of the Family's action or failure to act;
- e)* A determination to terminate assistance because the Family has been absent from the assisted Unit for longer than maximum period permitted under HHA policy and HUD rules.
- f)* A determination to deny a Reasonable Accommodation;

#### **2. Special Cases of Explanation in Advance of Informal Hearing**

In situations a-c of Section 1, "When an Informal Hearing Must be offered to a Family." (adjusted income, utility allowances, family unit size) the HHA will notify the family that the family may ask for an explanation of the basis of the HHA determination and if the family does not agree with the determination, the family may request an Informal Hearing on the decision.

#### **3. When an informal hearing is not required**

The HHA is not required to provide a Participant Family an opportunity for an informal hearing for any of the following:

Discretionary administrative determinations by the HHA;



General policy issues or class grievances;

Establishment of the HHA schedule of Utility Allowances for families in the program;

A HHA decision not to approve an extension or suspension of a Voucher term;

A HHA determination not to approve a Unit or tenancy;

A HHA determination that an assisted Unit is not in compliance with HQS;

A HHA determination that the Unit is not in accordance with HQS because of the Family size;

A HHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract;

#### 4. Notice to the Family to Request an Informal Hearing

Participants will be sent a notice which:

- Informs the Participant of the reason(s) for Termination;
- Advises the Participant of his/her right to contest the decision in an Informal Hearing provided a written request for a Hearing is received within twenty (20) calendar days of the date the Notice of Termination is issued. The request must be in writing and must state clearly the basis for requesting the informal review and be sent to the address provided on the notice;
- Advises the Participant that if s/he has a disability, not previously disclosed, that the disclosure of such condition would lead to the consideration of Mitigating Circumstances and/or a Reasonable Accommodation, if related to the disability.
- Advises the Participant that if s/he has been the victim of Domestic Violence, Dating Violence, or Stalking, that such situations could be considered as Mitigating Circumstances if they are directly related to the negative information.
- Provides a description of the HHA's informal hearing process and advises Applicants that they have the right to be represented by an attorney or other individual at the informal hearing, review the contents of their file in advance of the hearing, and the right to submit additional documents and evidence and to testify at the hearing;

- That the hearing officer may consider mitigating circumstances or a reasonable accommodation presented at the hearing when determining whether or not to deny the assistance of an applicant.

## 5. Expeditious Hearing Process

The HHA will hold a hearing and issue a decision within sixty days (60 days) from the date of the hearing or the date the record was closed, whichever is later. The Family will continue receive assistance while a decision is pending.

## 6. Hearing Procedures

### a. Time to request a hearing

The Participant has ten (10) days from the date of the proposed termination letter, except in non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member.

### b. Scheduling

The HHA will schedule an informal hearing upon the receipt of a Participant's written request. The Participant will be given at least fourteen (14) days' notice prior to the hearing date.

### c. Discovery

- i. The HHA will give the family the opportunity to examine before the hearing, any documents in HHA's possession that are directly relevant to the hearing. The HHA will allow the family to make copies of the relevant documents before the hearing at the family's expense. The HHA will also allow a representative of the family with an authorized release may have access to the file. If the HHA does not make the document available to the family for examination upon request, then the HHA may not rely on the document at the hearing.
- ii. The Family must allow the HHA to examine any Family documents that are directly relevant to the hearing before the hearing upon request. The Family must allow the HHA to examine the relevant documents at the HHA and the Family will allow the HHA

to copy the relevant documents at the HHA's expense. If the Family does not make the document available to the HHA for examination upon request, then the Family may not rely on the document at the hearing.

#### 6. Extension

Either party may request an extension if required to rebut documents that were not provided to the opposing party prior to the hearing. Extensions will be granted at the discretion of the hearing officer. The hearing officer may use discretion to grant an extension or continue the hearing to hear additional evidence or testimony.

#### 7. Amendments to Proposed Terminations

If the HHA wishes to amend the grounds for the proposed termination, the HHA must notify the Participant of the amendment in writing, not less than fourteen (14) days prior to the hearing date. The amendment will be sent by regular and certified mail to the Participant's address of record. When sending out an amended proposed termination notice, the amended notice should contain all violations. If the Participant has already requested a hearing due to the original proposed termination, a request for a hearing due to the amended notice is not required.

#### 8. Representation of Family

At its own expense, the Family may be represented by a lawyer or other representative of the Family's choice.

#### 9. Evidence

The HHA and the Family will each be given the opportunity to present evidence and question any witnesses. The Hearing Officer may consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### 10. Hearing File

The hearing file shall consist of all documents submitted by either party in relation to the subject of termination.

## 11. Hearing Officer

Any party so designated by the HHA may conduct the informal hearing, other than a person who made the decision under review or his or her subordinate. The person who conducts the hearing may regulate the conduct of the hearing in accordance with the HHA's hearing procedures.

## 12. Issuance of Decision

The hearing officer shall make a factual determination relating to the individual circumstances of the Participant based on a preponderance of the evidence presented at the hearing. The hearing officer shall take into consideration all relevant circumstances and any mitigating circumstances presented by the Participant. The hearing officer shall promptly render a written decision (within sixty days of the hearing or the date the record was closed, whichever is later) stating the reasons for the decision.)

The decision will contain the following information:

- i. Parties present and location: name of the participant; Date, time and place of the hearing; Name of the hearing officer; Name of the HHA representative; Name of family representative.
- ii. Background: A brief, impartial statement of the reason for the hearing.
- iii. Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony that are admitted into evidence.
- iv. Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence.
- v. Other Considerations: The hearing officer will indicate that consideration was taken of all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure, these factors will be addressed in the decision.
- vi. Conclusion: The hearing officer will render a conclusion. The conclusion will result in a determination of whether these facts uphold the HHA's decision.
- vii. Order: The hearing report will include a statement of whether the HHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's

determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

### 13. Failure to Attend the Hearing

The HHA may terminate the subsidy, if the Participant did not attend the hearing and did not attempt to reschedule within twenty-four (24) hours prior to hearing. The HHA will reschedule hearing when a Participant submits evidence of compelling circumstances that prevented the Participant attending the hearing on the scheduled date. If the Participant does not attend the hearing because the scheduling notice was not received due to the Participant's failure to give the HHA, the correct and most current address the HHA may terminate the subsidy.

### 14. Effect of Decision

If the decision to terminate the Family's assistance is upheld, the Family will no longer receive assistance under the section 8 program. The HHA will promptly send the Owner and the Participant a 30-day notice of termination. There is no additional opportunity within the HHA to appeal the hearing officer's decision.

If the decision to terminate the Family's subsidy is reversed, the Family will continue to receive assistance under the Section 8 program and will be considered a tenant in good standing.

The Executive Director or his/her or her designee may find that the HHA is not bound by an informal hearing decision:

Concerning a matter for which the HHA is not required to provide an opportunity for an informal hearing, or that exceeds the authority of the person conducting the hearing, or

Is contrary to HUD regulations or requirements, or otherwise contrary to federal, State or local law.

Under such circumstances, the Executive Director or his or her designee will make the determination to continue or terminate Participant's assistance. The HHA will promptly notify the Participant of the determination, and of the reasons for the determination. There will be no further opportunity within the HHA to appeal the decision.

The HHA may use its discretion to overturn a hearing that was "upheld" if the reason for termination was discretionary.

## 15. Informal Hearings for Non-Citizen Rule Matters

The Informal Hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

### C. Remote Hearings and Briefings

Upon request of the client as a reasonable accommodation or for extenuating circumstances or if determined necessary by the HHA due to social distancing or other similar requirements, the HHA may provide remote Private Conferences, Informal Reviews or Hearings or Briefings as applicable (Hereinafter in this section collectively referred to as “remote hearings”). The requirements set forth elsewhere in the plan still apply to these matters except as they are modified herein.

Requests for a remote hearing must be made in advance to the Housing Authority and the family must demonstrate why it is necessary as a reasonable accommodation or for extenuating circumstances. The Housing Authority will make the sole determination as to whether the circumstances warrant a remote hearing as a reasonable accommodation or extenuating circumstances.

Remote hearings may be the phone, via video conferencing, or through other virtual platforms. The HHA may use Zoom or a similar platform for electronic hearings but will also offer telephonic remote hearings when the zoom platform is unavailable to the family.

#### 1. Accessibility

Under Section 504, the ADA, and the Fair Housing Act, PHAs may need to make reasonable accommodations and take appropriate steps to ensure effective communication with individuals with disabilities. The Housing Authority will work with families on a case-by-case basis to ensure that remote hearings are accessible to them.

The Zoom platform has the following accessibility features:

Ability to add live closed captions

Produce an automated transcript

Keyboard Accessibility including specific keyboard shortcuts

Screen Reader support

## 2. Technology Barriers

If the family does not have proper technology access which will allow the individual to fully participate and this cannot be remedied, then the remote hearing will be postponed, or an in-person alternative will be provided.

## 3. Materials

All materials being presented, whether paper or electronic, will be provided to the family prior to the remote hearing or remote briefing. (where applicable see also “Discovery” below)

## 4. Privacy Protection

The HHA will not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information. In the alternative the HHA may send this information via first class mail.

## 5. Discovery

The HHA may request and copy any of the individual’s or family’s documents at the DHAs’ own expense in accordance with the applicable regulations. Additionally, the individual or family must be given the opportunity to examine any HHA documents that are directly relevant to the hearing prior to the remote hearing. This may include transmitting documents electronically or by mail that would normally be exchanged at the HHA’s office.

## 6. Communications

All families will be afforded the opportunity to communicate ask questions and questions witnesses as applicable in remote hearings.

## 7. Notification of Remote Hearing

When a remote hearing is scheduled, the letter notifying the family of the remote hearing will indicate:

The manner in which the remote hearing will be held including information as to how to access the remote hearing;

That the family may contact the HA if they have barriers to participation due to technical issues. If that is the case the HA will postpone the remote hearing if necessary and attempt to address the technical issues. Other options will be discussed including the option of an in person hearing if that is necessary under the circumstances;

That the HA will provide technical assistance during the remote hearing; and

The manner for family and HA receipt of documents for the remote hearing.

## **8. Technical Issues During the Remote Hearing**

If any family, family representative, advocate, witness, HHA representative, or the hearing officer is unable to effectively utilize the videoconferencing platform, the remote hearing will be conducted by telephone conferencing call-in. If that does not resolve the issue the matter will be continued to a new date.

## **VIII. Special Rules for Use of Special Purpose Vouchers**

HUD has not provided funding to the Hudson Housing Authority to administer special purpose vouchers. However, there are certain rules applicable to Mainstream Voucher terms with which the HHA will comply for incoming vouchers administered under special program rules.

The waivers and alternative requirements for Mainstream Vouchers as required by Notice PIH 2024-30 ("Notice") issued on August 20, 2024, require special voucher terms for Mainstream vouchers.

### **A. Mainstream Initial Search Term**

The initial search term for a Mainstream Voucher is 120 days. The 120-day term also applies when a family chooses to move to a new unit with continued assistance inside or



outside the Hudson Housing Authority's (HHA's) jurisdiction, in accordance with 24 CFR subpart H.

#### **B. Mainstream Extensions of Term**

The following apply to term extensions for Mainstream Voucher applicants:

Each extension will be for a minimum of 90 days;

The first extension request will be approved, regardless of how the request is made (written or verbal) or when it is made, as long as the request is made on or before the term expiration date and is consistent with applicable requirements; subsequent requests will be processed in accordance with HA's administrative plan; and

On at least one occasion after voucher issuance, the family will be notified prior to the initial term expiration to remind them of the term expiration date, the process for requesting an extension, and to inquire if the family is in need of assistance with their housing search.

Additional extensions will be granted if requested in accordance with the HHA's administrative plan.

HA will not restrict a first extension approval to certain circumstances or require documentation from applicants. For all extension requests, the written or verbal request is sufficient.

This provision is also applicable to current Mainstream Voucher participants who choose to move to a new unit with continued assistance inside or outside of HA's jurisdiction, in accordance with 24 CFR 982 subpart H.

In providing notice to the families of the expiration date and extension request process, HA will ensure effective communication with persons with disabilities, including those with vision, hearing, speech, intellectual or other developmental disabilities, or any other communication-related disabilities.

### **IX. Use of Special Housing Types**

#### **A. Reasonable Accommodation**

Unless so noted under the specific housing type addressed in Sections 2-7 below, special housing types shall be provided only if the provision of such serves to reasonably accommodate a person with a disability. The HHA does not offer an "in house" homeownership program but will work with a local housing authority that offers such a

program upon request of the family. The Administrative Plan for that PHA shall govern in that instance.

Special Housing types include the following:

- 1. Single Room Occupancy**

A single room occupancy (SRO) unit provides living and sleeping space to be used exclusively by the (individual) occupant. The occupant shares sanitary and/or food preparation facilities with other individuals.

The payment standard and utility allowance utilized will be 75% of a zero-bedroom unit. The HA will use a separate lease and housing assistance payment contract for each assisted person residing in an SRO.

The HQS in 24 CFR 982.401 applies to SRO housing units, except where there are special regulations for SRO units in 24 CFR 982.605. In addition, sanitary facilities and space and security features must meet local code standards for SRO housing. In the absence of local code standards, the regulations at 24 CFR 982.605 apply.

- 2. Congregate Housing**

Congregate housing is intended for use by elderly persons or persons with disabilities. The housing contains a shared central kitchen and dining area as well as a private living area for the individual household. The private living area contains at least a living room, bedroom and bathroom. Food service for residents of congregate housing must be provided by the facility.

The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The payment standard utilized will be that of a zero-bedroom unit, unless there are two or more rooms (excluding kitchen and bathroom) in such case the one-bedroom payment standard will be utilized.

For congregate housing, there must be a separate lease and HAP contract executed for each assisted family.

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the housing quality standards for congregate housing.

The HQS in 24 CFR 982.401 applies to congregate housing, except for the areas of food preparation and refuse disposal.

The HQS standards specific to congregate housing are set forth at 24 CFR 982.609.

### C. Group Homes

A Group Home is a dwelling unit that is licensed by the State as a Group Home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities.

A group home shall be licensed or certified by the Commonwealth of Massachusetts. It shall house no more than twelve (12) persons. Approval to reside in a group home will be withheld if continuous medical care is required for the individual.

The group home will have residents' bedrooms, which can be shared by no more than two people; living room; kitchen; dining area; bathroom; and other appropriate social, recreational, or community space that may be shared with other residents.

If approved by the PHA, a live-in aide may reside with a person with disabilities. The PHA must approve live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities

Rental calculations for a group home are set forth in 24 CFR 982.613 and indicate that a person's "pro-rata portion" is derived by dividing the number of assisted persons in the household (including live-in-aides of such assisted persons), by the total number of residents.

Rent reasonableness will be determined according to 24 CFR 982.507 and whether sanitary facilities or food preparation services are common or private, the rent to the owner will not exceed the pro-rata portion of the reasonable rent for the group home.

A zero or one-bedroom payment standard will be utilized unless a live-in-aide is present. The utility allowance will be the pro-rata portion for the group sized home.

24 CFR 982.614 and 982.401 (b) govern Housing Quality Standards for group homes.

#### D. Shared Housing

The HA may approve "shared housing" in which other persons who are assisted or not assisted under the tenant-based program may reside in the "shared housing unit." While the owner of a shared housing unit may reside in the unit, he/she may not be related to the Section 8 participant.

Further, housing assistance will not be paid on behalf of an owner.

There will be a separate HAP Contract and lease for each assisted family residing in a shared housing unit.

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit.

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the PHA payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the PHA payment standard for the shared housing unit size.

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

24FR 982.618 and 982.401 governs HQS for "Shared Housing" unit.

#### E. Cooperative Housing

Cooperative housing is a special housing type owned by a nonprofit corporation or association, where a member of the corporation or association has a right to reside in a particular unit. That member also has the right to participate in the management of the housing.

The HA may approve a family living in cooperative housing if it determines that assistance under the Section 8 program will help maintain affordability of the cooperative unit for low-income families.

The HA will not approve assistance for a family in cooperative housing until the HA has determined that the cooperative has adopted affordability requirements to maintain continued affordability for low-income families.

The HA may approve a live-in aide to reside with the family to care for a person with disabilities. The HA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The rent to owner for this form of housing is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative. The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down-payments or other payments to purchase the cooperative unit. Gross rent is the carrying charge plus any utility costs.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to limitations on rent to owner.

HQS for cooperative housing are governed by 24 CFR 982.401. HUD regulations at 24 CFR 982.619(d) specify family obligations relating to HQS maintenance for this housing type.

#### F. Manufactured Homes

A Manufactured Home is a manufactured structure that is built on a permanent chassis. It must be designed to be used as a principal place of residence and must meet HUD HQS.

A manufactured home must be placed on the site in a stable manner; and, must be free from hazards such as sliding or wind damage. 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 wind overturning and sliding.

The FMR for a manufactured home space is determined by HUD. The FMR for rental of a manufactured home space is generally 30 percent of the published FMR for a two-

bedroom unit. The payment standard is used to calculate the monthly housing assistance payment for a family.

During the term of a Voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

The payment standard minus the total payment; or

The rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the HA:

- Rent to owner for the manufactured home space;
- Owner maintenance and management charges for the space;
- The utility allowance for tenant paid utilities.

If necessary, the HA 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 are not provided, however, utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

## **X. Procedural Guidelines and Performance Standards for Conducting Required Inspections**

### **A. Consistency with Market Practice**

The guidelines and performance standards included herein are consistent with practices utilized in the private housing market. Specifically, in private market units, generally an occupancy permit will be requested by the owner. To obtain such permit, an inspector from the local code enforcement agency, usually the Inspectional Service's Department for the town will come out to the unit and perform an inspection to ensure that the unit is in compliance with the Massachusetts State Sanitary Code. In the event that the unit does

not pass inspection, the owner is provided a written description of the code violations and a time parameter within which to make repairs.

## **B. When Inspection shall be Performed**

Inspections will be performed in the following instances:

1. Initial Inspection: Prior to the approval of the tenancy and at the beginning of the initial lease term the HHA must perform this initial inspection. This inspection will take place and the family and owner will be notified of the results within fifteen (15) days of submission of the Request for Tenancy Approval (RTA).
2. Periodic Biennial Inspections: The HHA will inspect units under a Housing Assistance Payments contract biennially. The HHA reserves the right to inspect more frequently as determined necessary by the HHA.
3. Annual Inspections in Pre-78 Units with children under the age of 6: To ensure compliance with required visual assessments associated with HUD's Lead Based Paint regulations, the HA will conduct annual inspections for units where the property was built before 1978 and is occupied by a child under the age of 6.
4. Supervisory Quality Control Inspection: A random sample of annual and initial failed and passed units are selected for Quality Control Inspections. According to this method at least undergo a Quality Control Inspection to ensure that all inspections are performed in accordance with HUD requirements. For purposes of SEMAP a cross section of passed and failed inspections, will be drawn from a cross section of neighborhoods and inspectors and will be within 3 months of the inspection to be valid for reporting.
5. Interim Inspections. When a participant family or government official notifies the PHA of a potential deficiency.  
In such cases the following conditions apply:
  - *Life-Threatening.* If the reported deficiency is life-threatening, the HHA will, within 24 hours of notification, both inspect the housing unit and notify the owner if the life-threatening deficiency is confirmed. The owner must then make the repairs within 24 hours of HHA notification.
  - *Non-Life-Threatening.* If the reported deficiency is non-life-threatening, the HHA will, within 15 days of notification, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs

within 30 days of notification from the HHA or within any HHA-approved extension.

6. Upon Request of Owner: The owner may request that the Housing Authority perform an inspection to the unit to ensure that the unit is maintained in a manner consistent with HUD's HQS. The HHA will only perform such inspection if the HHA determines that performance of such inspection is reasonable.
7. Special Inspection: The Housing Authority may perform an inspection at any time to ensure that the unit is maintained in a manner consistent with HUD's Housing Quality/NSPIRE Standards.

### **C. Standards Utilized**

Effective October 1, 2025 the HHA will implement the use of HUD National Standards for the Physical Inspection of Real Estate. The HHA inspector, and its subcontractor(s), will perform inspections using NSPIRE standards.

The HHA will continue to use the former HQS standards (Pre 2024) until that date.

The inspection and application of such standards in no way eliminates the landlord's obligation to maintain the unit in accordance with the Massachusetts State Sanitary Code nor does it eliminate any rights or remedies of the tenant for the landlord's lack or failure to maintain a unit in accordance with requirements under State law.

The Inspector shall make the determination as to whether the condition is serious or life threatening taking into consideration HUD requirements and local codes.

#### **1. Pre - NSPIRE**

##### **a. Non-Life-Threatening Conditions**

Non-Life-Threatening condition is defined as any condition that would fail to meet the housing quality standards under 24 CFR 982.401 (pre-2024) and is not a life-threatening condition.

##### **b. Life-threatening Conditions**

The following will always be considered serious life-threatening violations, but the inspector may make additional determination that the situation falls into this category:



- i. Gas (natural or liquid petroleum) leak or fumes. A life-threatening condition under this standard is one of the following: (a) A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking; or (b) a strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.
- c. Electrical hazards that could result in shock or fire. A life-threatening condition under this standard is one of the following: (a) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed; (b) a light fixture is hanging by its wires; (c) a light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day to day use of the unit; (d) a receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed; (e) a receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed; (f) an open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses; (g) a cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections; (h) any nicks, abrasions, or fraying of the insulation that expose conducting wire; (i) exposed bare wires or electrical connections; (j) any condition that results in openings in electrical panels or electrical control device enclosures; (k) water leaking or ponding near any electrical device; or (l) any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- d. Inoperable or missing smoke detector. A life-threatening condition under this standard is one of the following: (a) the smoke detector is missing; or (b) the smoke detector does not function as it should.
- e. Interior air quality. A life-threatening condition under this standard is one of the following: (a) the carbon monoxide detector is missing; or (b) the carbon monoxide detector does not function as it should.
- f. Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting. A life-threatening condition under this standard is one of the following: (a) The chimney or venting system on a fuel fired water heater is misaligned,

negatively pitched, or damaged, which may cause improper or dangerous venting of gases; (b) a gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside; (c) a fuel fired space heater is not properly vented or lacks available combustion air; (d) a non-vented space heater is present; (e) safety devices on a fuel fired space heater are missing or damaged; or (f) the chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases.

- g. Lack of alternative means of exit in case of fire or blocked egress. A life threatening condition under this standard is one of the following: (a) Any of the components that affect the function of the fire escape are missing or damaged; (b) stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or (c) the building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- h. Other interior hazards. A life-threatening condition under this standard is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired.
- i. Deteriorated paint, as defined by 24 CFR 35.110, in a unit built before 1978 that is to be occupied by a family with a child under 6 years of age. This is a life-threatening condition only for the purpose of a condition that would prevent a family from moving into the unit. All lead hazard reduction requirements in 24 CFR part 35, including the timeline for lead hazard reduction procedures, still apply<sup>2</sup>.
- j. Any other condition subsequently identified by HUD as life threatening in a notice published in the Federal Register. HUD will notify PHAs if such changes are made.

## 2. NSPIRE Standards effective October 1, 2025

To ensure that all residents live in safe, habitable dwellings, the items and components located inside the building, outside the building, and within the units of

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<sup>2</sup> This is a mandatory HUD definition, nothing in this Administrative Plan is intended to waive any obligation on the part of the owner or manager of the assisted unit with regard to the laws relative to Lead Based Paint in the Commonwealth.

HUD housing must be functionally adequate, operable, and free of health and safety hazards. The standards are addressed in 24 CFR 5 subpart G and PIH 2023-28.

The PHA inspection will identify each deficiency as “Life Threatening”, “Severe,” “Moderate”, or “Low.” At the time of publication these standards can be found at [NSPIRE Standards \(hud.gov\)](https://www.hud.gov/nspire)

The HHA has expanded the NSPIRE “Life Threatening” deficiency list to include the following:

- Utilities not in service, including no running hot water
- No working heater during heating season as defined under local code
- Presence of Lead Based Paint with a child under the age of 6 in the unit

### 3. Lead-Based Paint

Lead based paint compliance issues are addressed in 24 CFR Part 35 Subpart M. Deteriorated paint in or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For any unit built before 1978 in which a child under the age of 6 will reside the Housing Authority will require the owner to provide a letter of Compliance.

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA will complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider.

The environmental investigation will be completed in accordance with program requirements, and the result of the environmental investigation will be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of NSPIRE.

Nothing in this section is intended to modify landlord responsibility under Massachusetts State Law with regard to lead based paint.

#### **4. Smoke Detectors**

The NSPIRE Standards for installing carbon monoxide devices and smoke alarms are in effect as they implement statutory mandates under the Consolidated Appropriations Act, 2021 and 2023 respectively. Further, the NSPIRE Standard for smoke alarms will be updated for the new smoke alarm requirements before the statutory compliance date of December 29, 2024. Specifically, on December 29, 2024 sealed batteries will be required pursuant to the Public and Federally Assisted Housing Fire Safety Act of 2022.

#### **5. Overcrowded**

If the unit is overcrowded under HQS (pre 2024 before 10/1/25) and NSPIRE standards (on or after 10/1/25) or State Law standards at any time the family will be issued a voucher to relocate.

### **G. Failed Inspections**

#### **1. Notification of Failure**

After an inspection is completed, if a unit fails inspection a letter is sent out to the landlord and the participant listing the violations and the time period for repair.

The letter will indicate that if the repairs are not made that withholding, abatement or termination will occur depending on the circumstances and if the violations are tenant or owner responsibility.

In the case of tenant-caused deficiencies, the owner is responsible until such time as it has been determined that the tenant is responsible in a particular case. Further nothing in the HAP contract provisions or HUD regulations modifies owner's responsibilities under State or local law.

- a. Life-threatening violations must be corrected within twenty-four (24) hours.

- b. For other HQS/NSPIRE violations, corrections must be made within thirty (30) days unless an extension is provided by the HHA.

## 2. Noncompliance

The unit is in noncompliance with HQS/NSPIRE if:

- a. The HHA or authorized inspector determines the unit has HQS/NSPIRE deficiencies based upon an inspection;
- b. The HHA notified the owner in writing of the unit HQS/NSPIRE deficiencies; and
- c. The unit HQS/NSPIRE deficiencies are not corrected in accordance within 24 hours of notification for life threatening deficiencies and 30 calendar days of notification for other deficiencies (or any reasonable HHA-approved extension).

## 3. Extensions

Extensions are provided at the sole discretion of the HHA. The HHA will exercise this extension authority in compelling situations when the landlord has demonstrated a good faith effort and the repair cannot be made within the allotted time frame (i.e. requires multiple bids, weather delays, delays in obtaining specific parts, materials or services).

## 4. Remedies

### a. **Withholding**

The HHA may withhold assistance payments for units that have HQS/NSPIRE deficiencies once the HHA has notified the owner in writing of the deficiencies.

It is the policy of the HHA to withhold payments when the owner has requested more than 60 days to make the repair associated with the NLT repair, and it is due to a delay for which the Housing Authority will not normally issue an extension.

If the unit is brought into compliance during the applicable cure period during withholding, the HHA will resume any withheld assistance payments and will provide assistance payments to cover the time period for which the assistance payments were withheld.

The maximum amount of time the CHA will withhold payments if the owner fails to correct the deficiencies within the required cure period before abating payments is 90 days.

Life threatening deficiencies that are unrepaired will be abated after the expiration of the applicable 24-hour period when they are not repaired. Withholding is not offered for 24-hour violations.

## **5. HAP Abatement and Termination Notice**

The HHA will abate the HAP if the owner fails to make the repairs within the applicable cure period. The HHA will make all HAP abatements effective the first of the month following the expiration of the HHA specified correction period (including any extension).

In such case the HHA will notify the family and the owner that it is abating payments and that if the unit does not meet HQS/NSPIRE within 60 days (or a reasonable longer period established by the HHA) after the determination of noncompliance, the HHA will terminate the HAP contract for the unit, and the family will have to move if the family wishes to receive continued assistance. The HHA will issue the family its voucher to move at least 30 days prior to the termination of the HAP contract.

The HHA will terminate the HAP contract for the owner's failure to correct the deficiencies after 60 days of abatement but may provide a longer period in individual circumstances. This longer period will not exceed 180 days from the date of the last HAP payment to the owner.

In all cases the HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

## **6. Tenancy Termination**

The owner may not terminate the tenancy of any family due to the withholding or abatement of assistance described herein.

During the period that assistance is abated, the family may terminate the tenancy by notifying the owner and the HHA. If the family chooses to terminate the tenancy, the HAP contract will automatically terminate on the effective date of the

tenancy termination or the date the family vacates the unit, whichever is earlier. The HHA will promptly issue the family its voucher to move.

If the family does not terminate the tenancy and the owner makes the repairs and the unit complies with HQS/NSPIRE within 60 days (or a reasonable longer period established by the HHA) of the notice of abatement, the HHA will recommence payments to the owner. The HHA does not make any payments to the owner for the period of time that the payments were abated.

## **7. Relocation Assistance**

The HHA will give any family residing in a unit for which the HAP contract is terminated due to a failure to correct HQS/NSPIRE deficiencies at least 90 days or a longer period as the HHA determines is reasonably necessary following the termination of the HAP contract to lease a new unit.

The HHA will use up to 2 months of the withheld and abated assistance payments for costs directly associated with relocating to a new unit, including security deposits, temporary housing costs, or other reasonable moving costs as determined by the HHA based on the locality.

The Security Deposit provided from the abated funds will be called, "HHA's Security Deposit Program Funds." Owners will be notified that families within this situation are approved for payment of a security deposit and this award is contingent on approval and final negotiated contract rent and on the completion of a fully signed lease, with HCV Lease Addendum attached, and Housing Assistance Payment Contract. Further the owner must comply with landlord obligations in accordance with M.G.L., c.186 s. 15B.

The HHA will require the family to remit the security deposit returned by the owner of the new unit at such time that the lease is terminated, up to the amount of the security deposit assistance provided by the HHA for that unit. In order to effectuate this policy, the HHA will execute an Agreement with the family in which they acknowledge that the Security Deposit is the property of the Housing Authority.

## **8. Family Caused HQS/NSPIRE Breach**

Family caused HQS/NSPIRE breach is the following:

- a. Family fails to pay for any utilities that the owner is not responsible to pay for, but which are required to be paid by the tenant;
- b. Family fails to provide and maintain appliances that the owner is not to provide but which are to be provided by the tenant;
- c. Any member of the household or guest damages the dwelling unit causing a violation of HQS/NSPIRE (damages beyond reasonable wear and tear).

In the case of an HQS/NSPIRE deficiency that the HHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, the HAP to the owner may not be withheld or abated. However, the HHA may terminate assistance to a family.

Pursuant to HUD regulations, for HQS/NSPIRE breach caused by the family, the family must take all steps permissible under the lease and State and local law to ensure the deficiency is corrected within 24 hours of notification for life-threatening deficiencies and within 30 days of notification (or other reasonable extension period established by the HHA) for non-life-threatening deficiencies). Otherwise, the HHA may terminate assistance to the family

## **9. Reinspection Fees**

When the owner notifies the HHA that a repair has been made but the deficiency has not been corrected or when the time for repairs has elapsed and the deficiency has not been corrected the HHA may elect to charge a reasonable reinspection fee in the amount equal to the fee charged to the HHA by their inspection's subcontractor. Said fee will not be charged if deficiencies were caused by the participant family; if the inspector was unable to gain access to the unit through no fault of the owner; or only new deficiencies were identified during the reinspection.

To the extent that any of the policies and requirements in this section F are not permissible under HUD regulations effective prior to June 6, 2024 then they will only be made applicable to HAP contracts that were either executed on or after or renewed after June 6, 2024. For purposes of this paragraph, a HAP contract is renewed if the HAP contract continues beyond the initial term of the lease.



## **H. Remote Verification of HQS Deficiencies for Annual or Interim Inspections**

The HA reserves the right to accept an owner's certification, a receipt from a vendor, a photo of the repair or tenant confirmation that required repairs are complete and then verify that action at the next on-site inspection.

The HA will use this verification process when appropriate in light of the severity of corrections.

In the case of initial inspections, the HA will always conduct an actual follow-up on-site inspection if the unit does not pass HQS pursuant to the initial inspection

## **XI. Income and Assets and Rent Determinations**

### **A. Income Defined**

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609.

This includes all amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker.

The following provision is not effective until notified by HUD that the HHA should implement this provision of HOTMA 102 and 104 : When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

### **B. List of Income Exclusions**

Income exclusions listed in 24 CFR § 5.609(b) shall be used for all income examinations, including new admissions, annual, and interim reexaminations. They are as follows:

Annual income does not include the following:

1. Upon a date to be determined by HUD - Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in

accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.<sup>3</sup>

2. The following types of trust distributions:

- a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 24 CFR § 5.603(b):
    - Distributions of the principal or corpus of the trust; and
    - Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust. (Also See Trusts Section for further discussion on treatment of trusts)
3. Earned income of children under the 18 years of age. (Other sources of income will be included unless otherwise excluded.)
4. Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
5. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

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<sup>3</sup>HUD will not be enforcing HHA compliance as it pertains to this item (1) because the IMS/PIC system reflecting pre-HOTMA asset requirements in the Assets Section of the HUD-50058 module. Specifically, HUD has indicated that it will not enforce compliance with provisions related to calculation of net family assets and asset income by July 1, 2025 and HUD will provide further guidance on when it will enforce compliance with provisions related to the calculation of net family assets. (See PIH HOTMA Implementation FAQs for PHAs - Questions Related to Notice PIH 2024-38 February 25, 2025)

6. Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
7. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.
8. Income of a live-in aide, foster child, or foster adult as defined in 24 CFR § 5.403 and 24 CFR §5.603, respectively.
9. Student Financial Assistance
  - a. Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu);  
This includes but is not limited to:
    - Federal Pell Grants;
    - Teach Grants;
    - Federal Work Study Programs;
    - Federal Perkins Loans;
    - Student financial assistance received under the Bureau of Indian Education;
    - Higher Education Tribal Grant;
    - Tribally Controlled Colleges or Universities Grant Program;
    - Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

and
  - b. Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of

housing while attending the institution of higher education and not residing in an assisted unit.

i. Student financial assistance, for purposes of 24 C.F.R. § 5.609(b)(9)(ii) means a grant or scholarship received from—

- The Federal government;
- A State, Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

ii. Student financial assistance, for purposes of 24 C.F.R. § 5.609(b)(9)(ii), does not include—

- Any assistance that is excluded pursuant to 24 C.F.R. § 5.609(b)(9)(ii);
- Financial support provided to the student in the form of a fee for services performed (*e.g.*, a work study or teaching fellowship that is not excluded pursuant to 24 C.F.R. § 5.609(b)(9)(ii) of this section);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in 24 C.F.R. § 5.609(b)(9)(ii) of this section.

iii. Student financial assistance, for purposes of 24 C.F.R. § 5.609(b)(9)(ii) must be:

Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

Expressly to assist a student with the costs of higher education; or

Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

iv. Student financial assistance, for purposes of 24 C.F.R. § 5.609(b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with 24 C.F.R. § 5.609(b)(9)(ii)

v. When the student is also receiving assistance excluded under 24 C.F.R. § 5.609(b)(9)(ii) of this section, the amount of student financial assistance under this paragraph is determined as follows:

If the amount of assistance excluded under 24 C.F.R. § 5.609(b)(9)(ii) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in 24 C.F.R. § 5.609(b)(9)(ii) of this section is considered student financial assistance excluded from income under 24 C.F.R. § 5.609(b)(9)(ii)(E).

If the amount of assistance excluded under 24 C.F.R. § 5.609(b)(9)(i) of this section is less than the actual covered costs under 24 C.F.R. § 5.609(b)(9)(ii)(B)(4), the amount of assistance described in 24 C.F.R. § 5.609(b)(9)(ii) that is considered student financial assistance excluded under this paragraph is the lower of:

- the total amount of student financial assistance received under 24 C.F.R. § 5.609(b)(9)(ii), or

- the amount by which the actual covered costs under 24 C.F.R. § 5.609(b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under 24 C.F.R. § 5.609(b)(9)(i) of this section.

**10.** Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

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

**12. Special Program Exclusions**

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

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

Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the HHA or owner, on a part-time basis, that enhances the quality of life in the development.

Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under 24 C.F.R. § 5.609(b)(9)(i) of this section.

- 13.**Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- 14.**Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in 24 CFR § 5.611. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. The dependent deduction will be adjusted annually in accordance with the (CPI-W). (Unearned income unless otherwise excluded is still included) "Full time student" status is determined by the institution.
- 15.**Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in 24 CFR 5.611.
- 16.**Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- 17.**Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse. Further, these payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. Many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.
- 18.**Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- 19.**Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family

through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

A family member with a disability qualifies for this income exclusion as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

- 20.** Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (*e.g.*, proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car). The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable. Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.
- 21.** Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law. This includes Cobell Settlements and Tribal Trust Settlements as further described in HUD PIH Notice 2023-27.
- 22.** Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. § 5.609**(b)** of this section apply. (See List at Exhibit B)

Note: ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when



calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD-Assisted Programs* (Notice H 2019-06/PIH 2019-09).

- 23.** Replacement housing “gap” payments made in accordance with 49 C.F.R. part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.
- 24.** Nonrecurring income, which is income that will not be repeated in the coming year (i.e. 12 months after certification effective date) based on information provided by the family. (i.e. This could include one-time funds for utility payments or eviction prevention payments.)
- 25.** Income received as an independent contractor, day laborer, or seasonal worker (see definitions section for more information) is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.

Nonrecurring income includes:

- a. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment. Any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.
- b. Direct Federal or State payments intended for economic stimulus or recovery. HUD will advise PHAs of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.
- c. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

- d. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- e. Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries).
- f. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization. The HHA will not assign a monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization.
- g. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income.

This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

- 26.** Civil rights settlements or judgments, including settlements or judgments for back pay. These amounts may be received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. Even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are still excluded. (However, the settlement amounts may be considered assets.
- 27.** Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements

(IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

**28.** Income earned on amounts placed in a family's Family Self Sufficiency Account.

**29.** Gross income a family member receives through self-employment or operation of a business;

Except that the following shall be considered income to a family member:

- a. Net income from the operation of a business or profession. (Net income is the "gross income amount minus business expenses" that allows the business to operate.)

Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined.

If needed for the determination the HHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless otherwise addressed by HUD.

## C. Calculating Annual Income

**This Section is effective after the HOTMA 102/104 implementation date has been established for the HHA.**

### 1. At admission and interim examination

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, the PHA must use anticipated income (i.e., the family's estimated income for the upcoming 12-month period).

### 2. At annual recertification

At annual recertification the PHA must use prior income and then take into account any changes. At annual recertification, the HHA will first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations. Adjustments to reflect current income must then be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with HHA policies and HUD regulations will be considered. If, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance.

## D. Verification of Excluded Income

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA is not required to:

- Verify the income using third-party verification;
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058.

The HHA's application and reexamination questionnaire documentation may serve as the self-certification of excluded income.

The HHA will verify the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

#### **E. Applying the Current SSA COLA at Next Annual and Interim Reexamination**

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at [www.socialsecurity.gov](http://www.socialsecurity.gov).

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

#### **F. Earned Income**

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

Income includes money the family members who are 18 years old or older make from work (earned income).

Common examples of earned income (not included for children under 18 years old):

- Money from a job like wages, salaries, tips, or other payments.

- Money earned from business.
- Money earned as a day laborer, doing seasonal work, or as an independent contractor.

## **G. Nonrecurring Income**

Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family (i.e. this could include one-time funds for utility payments or eviction prevention payments).

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.

Nonrecurring income includes:

1. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment. Any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.
2. Direct Federal or State payments intended for economic stimulus or recovery. HUD will advise PHAs/MFH Owners of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.
3. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
4. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
5. Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries).
6. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization. The HHA will not assign a monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization.

7. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income.

This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

## **H. Zero-Income Reviews**

A zero-income review is an assessment performed by the HHA of the income of a family who claims that they do not receive income from any source, including from assets. During such a review the HHA will request that families complete and sign a worksheet explaining how they pay for the household's expenses.

In calculating annual income, the HHA will not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family. The HHA will perform an interim reexamination only due to an increase in the family's adjusted income.

A family who begins receiving income which does not require an interim reexamination will no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.

The HHA will not conduct zero income reviews for zero income families. Instead, HHA will monitor zero income families in EIV to identify increases in income. The HHA will generally accept self-certification as the highest form of verification of zero income. The HHA may always perform a zero-income review in cases of suspected fraud.

## **I. Minimum Rent Policy**

The Public Housing Reform Act of 1998 includes a provision for the establishment of minimum rents to be paid by participants in the Section 8 Housing Choice Voucher Program. This provision permits housing authorities administering the program to set a minimum rent requirement between \$0.00 and \$50.00 per month.

Due to the reduction of funding and in response to recommendations from the Secretary of the U.S. Department of Housing and Urban Development (HUD), the Housing Authority has established a minimum rent of \$50.00 per month for the Section 8 Housing program.

### **1. Exemptions from The Minimum Rent Requirement**

To be considered for an exemption from the minimum rent requirement a tenant/participant household must demonstrate that it is experiencing a financial hardship due to an unexpected or unprecedented economic burden on the family. (The voluntary loss of income, or voluntary continued loss of income, does not necessarily qualify a family for the financial hardship exemption from minimum rent.)

Only the following situations shall qualify for the exemption:

- a. When the family has lost eligibility for, or is awaiting an eligibility determination from a federal, state or local assistance program, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits except for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
- b. When the family would be evicted as a result of the imposition of the minimum rent requirement.
- c. When the family income has decreased due to changed circumstances, including involuntary loss of employment.
- d. When the family has an increase in expenses due to changed circumstances, such as medical costs, childcare, transportation, education, or similar items.



- e. When a death or severe illness has occurred in the family.
- f. Other qualifying circumstances that would require approval by the Housing Authority or HUD.

Requests for an exemption from the minimum rent must be submitted in writing to the Housing Authority office. This written request must be accompanied by the following:

- a. A complete listing of all household members' current income and their sources.
- b. A completed Zero Income form listing all the household members' current financial obligations and routine expenditures.
- c. A certification statement that no member of the household has made a purchase or financial obligations of a non-essential nature, as outlined above, within the past 90 days.
- d. 4.) A certification statement signed by all members of the household over the age of 18 years authorizing HA to obtain account information directly from any form of subscription entertainment or communication services.
- e. If a family requests the hardship exemption, application of the minimum rent hardship will be suspended beginning the month following the family's written hardship request. During suspension, the minimum rent will be included in the family's Total Tenant Payment (TTP) and the housing assistance payment will be increased accordingly.
- f. The Housing Authority will determine if the hardship is temporary or long-term. This determination will be based on the information and documentation provided by the family.

## **2. Temporary Hardship**

If the hardship is determined to be temporary, the minimum rent will be suspended for a period of 90 days from the date of the family's request. Documentation substantiating the claim for a temporary hardship is required. At

the end of the 90-day period, the minimum rent will be reinstated retroactively to the date of the suspension and the amount of overpaid assistance, based on the minimum rent amount, shall be reimbursed by the family. The Housing Authority will offer a reasonable repayment agreement to cover the minimum rent charges accumulated during the suspension period.

### **3. Long-term Hardship**

If the hardship is determined to be long-term, that will extend beyond a 90-day period, documentation regarding the reasons to substantiate the long-term hardship will be required. A statement from either a medical provider or other documentation that the Housing Authority considers to be sufficient will be required. If the Housing Authority determines that there is a long-term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists. Repayment of the minimum rent is not required as long as the family has complied with the Family Obligations of reporting information. At each annual reexamination, the family's eligibility for financial hardship exemption will be reviewed.

### **4. No Hardship**

If the family has failed to provide documentation proving the hardship has occurred due the circumstances listed or the Housing Authority has determined that there is no qualifying hardship, the minimum rent will be reinstated. A repayment agreement will be executed for any money owed to The Housing Authority during the time of the suspension. Hardship determinations are subject to The Housing Authority's informal hearing process and will be reviewed. If the Housing Authority determines hardship does not exist, the family has the right to request an informal hearing on the decision.

## **J. Adjusted Income**

**Some definitions in effect July 1, 2025 that assist with this determination are as follows:**

"Dependent" is a member of the family (which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.

“Foster child” is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. In Massachusetts this is generally children under the care of the Department of Children and Families pursuant to M.G.L. ch. 119. The HHA will generally request a court order from a court of component jurisdiction in the Commonwealth or placement letter issued by the Massachusetts Department of Children and Families for verification.

“Foster adult” is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. The HHA will generally request a court order from a court of component jurisdiction in the Commonwealth setting forth Guardianship of the person. This definition includes young adults age 19-22 pursuant to M.G.L. ch. 119, § 21 who are under the custody, care, or responsibility of the department of Children and Families including, but not limited to, those who meet the eligibility criteria set forth in M.G.L. ch. 119, § 23(f).

“Health and medical care expenses” are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed and may only be deducted for elderly or disabled families.

The HHA will review each expense to determine whether it is eligible in accordance with this definition. The HHA does not specifically align with IRS Publication 502 but will use it as a standard for determining allowable expenses provided that they conform with the above definition of allowable expenses. (Examples of allowable expenses are set forth in Chart 2).

“Minor” is a member of the family, other than the head of family or spouse, who is under 18 years of age.

**Chart 2 Health and Medical Care Expenses**

<b>Summary of Typical Allowable Health and Medical Care Expenses</b>	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, and non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses. The HHA will use the most current medical mileage rate listed in IRS Publication 502
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but not nonprescription medicines, even if recommended by a doctor	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.
Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	
Medical insurance premiums or the cost of a health maintenance organization (HMO)	
Medicare Part B and Part D premiums	
<b>Note:</b> This chart provides a summary of eligible health and medical care expenses only. In all cases, the HHA will consider whether health and medical expenses claimed by the family are eligible under HUD's definition.	

## 1. Mandatory Deductions

The HHA will consider mandatory deductions when determining a family's annual adjusted income. The HHA has no additional permissive deductions other than those established by HUD.

The following are mandatory deductions:

### a. Dependent

**This is effective upon notice by HUD. Please see prior HCV Administrative Plan and/or and HUD regulations for prior rule**

\$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

### b. Elderly or Disabled Family

**This is effective upon notice by HUD. Please see prior HCV Administrative Plan and/or and HUD regulations for prior rule**

\$525 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;

### c. Health and Medical and unreimbursed attendant Care and Auxiliary Apparatus

**The sum of the following, to the extent the sum exceeds ten percent of annual income, however it shall be 3% of annual income until such time as HUD implements 102/104.**

#### i. Unreimbursed health and medical care expenses of any elderly family or disabled family;

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated

during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses.

Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families. In order to claim unreimbursed health and medical care expenses, the family must have a head, co-head, or spouse that is elderly or a person with a disability

The HHA will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

- d. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed.

This deduction may not exceed the combined earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus;

In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must

1. include a person with a disability, and
2. the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

**Family member(s) permitted to work:**

- HHA will verify that the expenses claimed enable a family member, or members, including the person with disabilities, to work.
- The HHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus enables another family member, or members, to work.
- This documentation may be provided by the family. If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense enables a family

member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

- To be eligible, the costs must not be reimbursed by another source.
- The family is required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the from any source.

### **Attendant Care**

Examples of attendant care expenses include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or canceled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred and the anticipated period.

### **Auxiliary Apparatus**

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing.

Auxiliary apparatus expenses will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the period for which the hardship is requested.
- Third-party verification form signed by the provider, if family-provided documents are not available.

- If third-party or document review is not possible, written family certification of estimated apparatus costs for the period for which the hardship is requested.

In addition, HHA will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
  - The expense permits a family member, or members, to work.
  - The expense is not reimbursed from another source.
- e. Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

Any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational))
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family to work do not exceed the amount of employment income that is included in annual income.

The HA calculates childcare expenses in accordance with the following policies.

i. Choice of Provider

The HA cannot choose who will provide childcare for a participant's child(ren), nor may the HA decide the type of childcare to be provided. Those decisions are left to the family. The HA may not refuse to give a



family a childcare expense deduction because there is an adult member in the household that may be available to provide childcare.

## ii. Childcare Expense Verification

When determining allowable amounts for childcare, staff must verify:

- The actual cost of the childcare and the hours and days it is provided;
- That the cost of the childcare is reasonable (as defined below);
- That the hours of childcare relate to the hours working, in school or searching for employment with a reasonable time allowed for transportation;
- That the cost of childcare is not being reimbursed. This information may be obtained through a certified statement.

Staff must also require the family to document whichever of the following applies:

- The wages earned by the person freed up to work by the childcare;
- The days and hours of work (and a reasonable time for transportation to and from employment - normally one half-hour each way unless otherwise documented);
- Full-time student status and the hours of schooling (with a maximum allowance for travel time of one half-hour each way and study time at the place of instruction not to exceed 3 hours weekly per hour of coursework);
- That the person is currently seeking employment.

## iii. Reasonable Costs of Childcare

To determine the reasonableness of childcare costs the HA uses regional market rates and figures published from time to time in HA memoranda or in the HA Section 8 guidebook for annual income.

## iv. Earnings Resulting from Childcare

HA follows a general rule that childcare is enabling the person with the lowest income from earnings to work unless this is obviously not the case.

v. Childcare and School Year Proration

If the family will pay a different rate for childcare depending on whether the child is in school or out of school and information is not available from the childcare provider on what portion of the year the child is in school, the HA will consider the child to be in school 38 weeks of the year and out of school 14 weeks for the purpose of prorating childcare for the year.

2. Relief for Families due to change in mandatory deductions

**The provisions below will be implemented by the PHA when HUD has indicated the 102 104 HOTMA provisions should be made effective by the HHA.**

Previously, if families were eligible and spent more than 3% of their yearly income on certain medical expenses, they received an income deduction. New rules change this to 10% meaning that fewer medical expenses will be deducted and family portion of the rent for the family may increase. To help families, this change will be made over two years (Phased in Relief). Also, a new hardship deduction allows families who cannot pay rent due to a hardship to deduct more medical expenses for a time (General Relief).

There are two types of qualifying expenses:

- Health and medical care expenses of elderly or disabled families.
  - Reasonable attendant care and equipment expenses for families that include a person with disabilities.
- a. Phased in Relief for families eligible for and taking the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based

on their most recent income examination prior to January 1, 2025<sup>4</sup>, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after January 1, 2025, or another HOTMA effective date as directed by HUD.

Families who received this phased-in relief will have eligible expenses deducted as follows:

- 1<sup>st</sup> twelve months: in excess of 5% of annual income.
- 2<sup>nd</sup> twelve months: in excess of 7.5% of annual income.
- After 24 months: in excess of 10% threshold will phase in and remain in effect unless the family qualifies for general hardship relief.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA will process another transaction one year later for the next phase. The transaction can be either an interim reexamination, or a non-interim reexamination transaction.

The phased-in hardship relief will not be provided to families who were eligible for relief and who are treated as new admissions under a different program.

Once a family chooses to obtain General Relief, a family may no longer receive the phased-in relief.

- b. General Hardship relief for unreimbursed health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses

Families that can demonstrate that the family's has new or increased health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination may qualify for General Relief.

- i. Requirements for General Hardship Relief

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<sup>4</sup> It is unknown at this time what date HUD will determine is the date to determine eligibility for relief. This date will be updated on an as needed basis if HUD makes a change.

The family is an elderly or disabled family or a family that includes a person with disabilities; and

- Family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased; or
- The family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent or other financial hardship is a result of a change in circumstances that would not otherwise be cause for an interim reexamination; or
- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits; or
- The family's income decreased because of a loss of employment; or
- The family's income decreased death of a family member; or
- The family's income decreased due to a natural or federal/state declared disaster; or
- Other compelling circumstances as determined by the PHA on a case-by-case basis.

A hardship in such circumstances will be reviewed under the following standard: due to change in circumstances expenses are more than 45 percent of the family's adjusted income and that these circumstances do not require an interim reexamination to downwardly adjust the rent.

General Hardship relief is available regardless of whether the family previously received deductions under 24 CFR 5.611 (a)(3), is currently receiving phased in relief, or previously received phased in relief.

A family may request hardship relief prior to the end of the twenty-four (24) month transition period (Phased in Relief). Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

ii. Verification

The HHA will obtain third-party verification of the family's inability to pay rent or will document in the file the reason third-party verification was not available.

iii. Form and Amount of General Relief

If a family receiving phased in relief requests and is determined eligible for hardship relief, transitional relief ends and the family's hardship relief shall be administered in accordance with hardship relief requirements and the family will no longer receive phased in relief.

The family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income.

iv. Family notification

The PHA will notify families in writing of the decision.

v. Approvals

Written notification will be provided which provides a change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The notice will provide the dates that the hardship exemption will begin and expire and the requirement for the family to report to the HA if the circumstances that made the family eligible for relief are no longer applicable. The notice will also indicate that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The PHAs will still provide families 30 days' notice of any increase in rent.

vi. Denials

Families denied a hardship will be granted an informal hearing.

vii. Duration of Relief

The family's general hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after ninety (90) days, whichever comes earlier.

For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost or for (90) days whichever comes earlier.

For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred or for (90) days, whichever comes earlier.

During the General Hardship Relief period the family must report changes in circumstances as outlined in vii below.

viii. Extension

The HHA will not extend relief beyond 90 days.

ix. Non-interim Examination

To initiate, extend, or conclude a hardship exemption only, the HA will process and submit a non-interim reexamination transaction.

The HHA will not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change is experienced by the family calls for an interim reexamination under the applicable regulation or in accordance with the HHA's policies on conducting interim reexaminations for adjusted income decreases that are less than ten (10) percent.

x. Reporting of change in circumstances

Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. Reporting shall be made to the HHA in writing with seven (7) days. If the family reports the change in circumstances in a timely manner, HHA will provide the family with [30] days advance notice of any rent increase, and such rent increase will be effective the first day of the month beginning after the end of that [30] day period. If the

family does not report the change in a timely manner, the adjustment will be made retroactive to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement where circumstances permit..

### 3. Hardship to Continue the Child Care Expense Deduction

A family whose eligibility for the child-care expense deduction is ending may request a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

#### a. Requirements for Hardship to Continue the Child Care Expense Deduction

- The family is eligible for the childcare expense deduction under federal regulations; and
- Said childcare expenses deduction is ending; and
- family is unable to pay their rent because of loss of the childcare expense deduction; and
- the family will lose childcare slot which is needed by the family due to extenuating circumstances; or
- The family still requires the childcare because all family members able to care for the child are unavailable for other reasons; or
- The childcare slot provides special services of benefit to the child, or
- Other compelling circumstances that demonstrate to the HA the childcare expense is still necessary even though the family member is no longer employed or furthering his or her education.

Determining the family's inability to pay the rent for purposes of determining eligibility for a hardship exemption is reviewed as follows:

Verification that the rent, utility payment, and applicable expenses (child-care expenses) is more than 45 percent of the family's adjusted income and these circumstances do not require an interim reexamination to downwardly adjust the rent.

#### b. Verification

The HHA will obtain third-party verification of the family's inability to pay rent or will document in the file the reason third-party verification was not available.

c. Form and Amount of Hardship to Continue the Child Care Expense Deduction

The family will receive a deduction for 90 days.

d. Family notification.

The PHA will notify families in writing of the decision.

i. Approvals

Written notification will be provided which provides a change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The notice will provide the dates that the hardship exemption will begin and expire and the requirement for the family to report to the HA if the circumstances that made the family eligible for relief are no longer applicable. The notice will also indicate that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The PHAs will still provide families 30 days' notice of any increase in rent.

ii. Denials

Families denied a hardship will be granted an informal hearing.

**iii. Duration of Hardship to Continue the Child Care Expense Deduction**

The family's relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after ninety (90) days, whichever comes earlier.



For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost or for (90) days whichever comes earlier.

For hardship conditions based upon hardship-related expenses, the exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred or for (90) days, whichever comes earlier.

During the General Hardship Relief period the family must report changes in circumstances as outlined in vii below.

#### iv. Extension

The HHA will not extend relief beyond 90 days.

#### v. Non-interim Examination

To initiate, extend, or conclude a hardship to Continue the Child Care Expense Deduction exemption only, the HA will process and submit a non-interim reexamination transaction.

The HHA will not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change is experienced by the family calls for an interim reexamination under the applicable regulation or in accordance with the HHA's policies on conducting interim reexaminations for adjusted income decreases that are less than ten (10) percent.

#### vi. Reporting of Change in Circumstances

Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. Reporting shall be made to the HHA in writing with seven (7) days. If the family reports the change in circumstances in a timely manner, HHA will provide the family with [30] days advance notice of any rent increase, and such rent increase will be effective the first day of the month beginning after the end of that [30] day period. If the family does not report the change in a timely manner, the adjustment will be made retroactive to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement where circumstances permit.

## **5. Additional Permissive Deductions**

The HHA has not established other permissive deductions by policy.

## **6. Sunset of the Disallowance (Exclusion) of increase in annual income; Earned Income Disregard**

The Earned Income Disregard (EID) allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of twenty-four (24) consecutive months.

The EID will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

Families eligible for and already participating in the disallowance as of December 31, 2023 may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to twenty-four (24) consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

## **K. Assets**

The provisions below are not effective until HUD indicates the implementation date for HOTMA 102 and 104 for the HHA.

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded.

As part of the process to determine Net Family Assets, the HHA will take the following steps:

The family will be required to disclose all assets including real and personal property on the application or continuing application.

The HHA will assess the list and if the family's non-necessary personal property has a net value over \$50,000 and to determine if items are necessary personal property or non-necessary personal or are otherwise excluded.

The HHA will determine what is a necessary item of personal property as it is a fact-specific determination. The HHA will require enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The HHA will obtain third-party verification of assets every year both below and above \$50,000 unless otherwise stated herein.

#### **L. Exclusions from Net Family Assets**

Unless excluded under pre HOTMA 102/104, the provisions below are not effective until HUD indicates the implementation date for HOTMA 102 and 104 for the HHA.

The following assets are excluded under HOTMA. If the family owns an excluded asset, its value does not count toward the asset restriction:

1. The value of necessary items of personal property.
2. The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation.
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
5. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
6. The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.
7. The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
8. Interests in Indian trust land.
9. Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.

10. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
11. Family Self-Sufficiency accounts.
12. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
13. The full amount of assets held in an irrevocable trust.
14. The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household.

### Excluded Asset Chart

Category	Excluded	Asset Example(s)	Note
Personal property	Necessary items of personal property	Medical devices, vehicle for commute	fact-specific determination
Personal property	Non-necessary items of personal property if the combined total value does not exceed \$50,000*	Vintage baseball cards, recreational boat, coin collection, art	PHA Policy PHA Policy does not allow self-certification
Savings account	Retirement account recognized by IRS	IRA, 401(k), 401(b) and retirement plans for self-employed individuals	
Cash	Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability	A driver injures a family member, causing a disability. The family sues, and the driver's insurance pays the family.	
Savings account	The value of certain education or	Under Internal Revenue Code	Coverdell accounts, tuition programs,

	disability support savings accounts	sections 529, 529A, 530, “baby bond” accounts	any “baby bond” account created, authorized, or funded by Federal, state, or local government
Real property	Interest in Indian trust land	Family has interest in land held in trust by Bureau of Indian Affairs	
Real property	Equity in a manufactured home where the family receives assistance under 24 CFR 982	HCV Manufactured Home Space Rental participants	
Real property	Equity in property where the family receives assistance under 24 CFR 982	HCV homeownership participant	For real property other than manufactured homes
Savings account	Family Self-Sufficiency (FSS) accounts		
Cash	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family	Earned Income Tax Credits (EITC)	
Trust Funds	Trust that is not revocable by, or under the control of, any member of the family or household	Irrevocable trust	

# **1. Treatment of Necessary and Non-Necessary Personal Property [24 CFR 5.603]**

Necessary personal property is excluded from net family assets.

*Necessary personal property* are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for

employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.

The HHA will determine what is a necessary item of personal property as it is a fact-specific determination. The HHA will require enough facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

*Necessary personal property does not include* bank accounts, other financial investments, or luxury items.

Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

The following table lists examples of necessary and non-necessary personal property. This is not an exhaustive list.

<b>Necessary Personal Property (excluded)</b>	<b>Non-Necessary Personal Property (included after 50,000)</b>
<ul style="list-style-type: none"> <li>• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</li> <li>• Furniture, carpets, linens, kitchenware</li> <li>• Common appliances</li> <li>• Common electronics (e.g., radio, television, DVD player, gaming system)</li> <li>• Clothing</li> <li>• Personal effects that are not luxury items (e.g., toys, books)</li> <li>• Wedding and engagement rings</li> </ul>	<ul style="list-style-type: none"> <li>• Recreational car/ vehicle not needed for day to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs))</li> <li>• Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</li> <li>• Recreational boat/watercraft</li> <li>• Expensive jewelry without religious or cultural value, or which does not hold family significance</li> <li>• Collectibles (e.g., coins/stamps)</li> </ul>

<ul style="list-style-type: none"> <li>• Jewelry used in religious/cultural celebrations and ceremonies</li> <li>• Religious and cultural items</li> <li>• Medical equipment and supplies</li> <li>• Health care–related supplies</li> <li>• Musical instruments used by the family</li> <li>• Personal computers, phones, tablets, and related equipment</li> <li>• Professional tools of trade of the family, for example professional books</li> <li>• Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</li> <li>• Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</li> </ul>	<ul style="list-style-type: none"> <li>• Equipment/machinery that is not used to generate income for a business</li> <li>• Items such as gems/precious metals, antique cars, artwork, etc.</li> </ul>
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## 2. Treatment of Real Property

All assets are categorized as either real property (e.g., land, a home) or personal property.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

*Real property* is included in net family assets regardless of its value unless the real property meets an exclusion under 24 CFR § 5.603. Specifically, real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.

## 3. Verification relating to Real Property Ownership

The HHA will determine compliance based on a certification by a family that certifies that such family does not have any present ownership in any real property at the time of the income determination or review. The HHA will require the use of the PHA form for this purpose.

However, if the family owns real property, the HHA will seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

#### **M. Third Party Verification v Use of Self- Certification when assets below 50,000**

**The provisions below are not effective until HUD indicates the implementation date for HOTMA 102 and 104 for the HHA.**

The HHA will obtain third-party verification of assets every year both below and above \$50,000 unless otherwise stated herein.

#### **N. Treatment of Certain Assets**

##### **1. Assets with negative equity.**

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

##### **2. Assets disposed of for less than fair market value.**

In determining the value of net family assets, the HHA will include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

##### **3. Asset owned by business entity.**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own



name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

#### **4. Jointly owned assets.**

Unless otherwise stated herein, for assets jointly owned by the family and one or more individuals outside of the assisted family, the HHA must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### **O. Income from Assets [24 CFR 5.609(a)(2)]**

The provisions below are generally not effective until HUD indicates the implementation date for HOTMA 102 and 104 for the HHA. See PIH 2024-38 for additional details.

**See prior Administrative Plan and HUD regulations at part 24 of the Code of federal Regulations with regard to Assets until the HOTMA 102/104 effective date.**

#### **1. Actual Income**

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or

excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

## 2. Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets, then PHAs must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset (which can equal \$0) can be calculated, imputed income is not calculated for that asset.

## 3. Passbook Rate [24 CFR 5.609(a)(2)]

HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. The PHA will use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (annually adjusted for inflation). The HUD-published passbook rate is posted to a dataset on the HUDUser Web site, alongside annual inflationary adjustments.

## P. Treatment of Trusts

Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and
- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

### 1. As an Asset

The value of *irrevocable trusts* and *revocable trusts* where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household are both excluded from net family assets.

*A revocable trust that is under the control of the family* is included in net family assets. (Therefore, income earned on this trust is included in the family's income from assets).

### 2. Actual Income from a Trust

As indicated above, if the HHA determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

The HHA will calculate imputed income on the revocable trust determined to be an asset if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (i.e., if the trust is comprised of farmland that is not in use).

Where an irrevocable trust and a *revocable trust* where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household are excluded from net family assets, the HHA will not consider actual income earned by the trust (i.e., interest earned, rental income if property is held in the trust) *for so long as the income from the trust is not distributed (see below)*.

### 3. Trust Distributions and Annual Income

Revocable trusts (unless they are not under the control of the family) are considered part of net family assets. If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.
- Income means trust income and not any distribution from the trust to the beneficiary.

(See also income exclusions section)

#### **Treatment of Trusts**

<b>Trust Type</b>	<b>Asset</b>	<b>Is Interest Earned by Trust Family Income</b>	<b>Are distributions of trust principal considered family income?</b>	<b>Are distributions of interest earned on the trust principal considered family income?</b>
Revocable And Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable And	Yes	Yes	No	No

Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)				
Irrevocable <sup>5</sup>	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

#### 4. Verification and Trusts

The Housing Authority will request a certification of trust, the actual trust if certification is insufficient for verification and trust bank statements.

#### Q. Treatment of Federal Tax Refunds or Refundable Tax Credits

**Asset Provisions effective after 102/104 implementation date. However, income exclusions as otherwise set forth herein are effective July 1, 2025.**

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<sup>5</sup> Typically, Special Needs Trusts are Irrevocable

### 1. Asset Exclusion

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

### 2. Income

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR 5.609(b).

### 3. Verification

#### **Effective after 102/104 implementation date.**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets.

The HHA will not verify the amount of the family's federal tax refund or refundable tax credits when the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required.

PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000 (adjusted annually for inflation).

### **R. Asset Limitations**

**This Section will be made effective upon notification by HUD of the HHA's 102/104 effective Date.**

#### 1. At Admission

A family is not eligible to receive assistance if the family has net assets in excess of \$100,000 (as defined in 5.603), as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

A family is not eligible to receive assistance if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.

A property is suitable for occupancy unless the following applies:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the HHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical conditions pose a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

Further, the restriction is not applicable to:

- Any property for which the family is receiving assistance under 24 CFR 892.620; or under the Homeownership Option in 24 CFR part 982;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owners property;
- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking as defined in part 5 (subpart L); When a family asks for or about an exception to the real property restriction because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HHA or owner must comply with the confidentiality requirements under 5.2007. The HHA or owner must accept a self-certification from the family member, and the restrictions on requesting documentation under 5.2007 apply; or
- Any family that is offering such property for sale.

## **2. Real Property Ownership may also count towards the \$100,000 Asset Limitation**

There are several exemptions to the real property restriction which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. Those exemptions do not indicate that such real

property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

### **3. At Reexamination Total Non-Enforcement Policy**

At annual and interim reexamination, the HHA will not enforce the asset limitation. The HHA will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation and the family will continue to receive assistance. This total nonenforcement policy is applied the same for all families within the HCV program.

The HHA will still calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. In the course of calculating net family assets, the HHA still needs to determine whether the family owns real property that must be included in net family assets. However, due to the enforcement policy the HHA is not required to obtain and verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618 (whether owned real property is suitable for occupancy). If a family owns real property, that real property will need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the HHA will not need to inquire whether it is suitable for occupancy.

This total non-enforcement does not apply to the proposed admission of new participant members to the family/household. Requested additions to the family composition are subject to the asset limit/real property restrictions.

### **4. Acceptable Documentation**

Where applicable, the HHA will determine compliance based on a certification by a family that certifies that such family does not have any present ownership in any real property at the time of the income determination or review.

However, if the family owns real property, the PHA must seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Policies on this are also located in the eligibility section of this Administrative Plan.



## **XII. Verification, Income and Deductions**

**See prior Administrative Plan for Verification Hierarchy prior to the HOTMA 102/104 effective date except that the HHA explicitly adopts the 120 from receipt for acceptable timeframe and receipt of statement from the appropriate benefit year for fixed income sources pursuant to HOTMA discretionary provisions. Finally, the HHA has adopted the provision that it will generally not utilize the EIV income report at interim recertification unless it is determined to be helpful in a specific situation (i.e. zero income).**

### **A. Verification**

The HHA is responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is the process by which the PHAs gathers information (i.e., about the family's annual income, value of assets, etc.) independently for the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. The PHAs must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy that describes verification documentation from most acceptable to least acceptable. The PHA will demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

### **B. Methods of Verification and Ranking Order**

<b>Verification Hierarchy</b>		
<b>Level</b>	<b>Verification Technique</b>	<b>Ranking/Order of Acceptability</b>
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system	Highest PHAs must pull the EIV Income Report for each family at every Annual Reexamination EIV may be used as the sole verification of Social Security Income EIV income information may be used to calculate other types of annual income

		when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as “tenant-provided verification” OR EIV + Self-Certification PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High <ul style="list-style-type: none"> <li>• Written, third-party verification is used when tenant disputes EIV-reported employment and income information.</li> <li>• The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.</li> </ul>
3	Written, Third-Part Verification Form	Medium <ul style="list-style-type: none"> <li>• Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation.</li> <li>• May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.</li> </ul>
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low Use as a last resort when unable to obtain any type of third-party verification or if specially permitted.

## 1. Upfront Income Verification using Enterprise Income Verification Level 6 Highest

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs/ as a UIV technique and that all HAs are required to use EIV in its entirety.

The HHA must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs are required to use the following reports from the EIV System:

- Debts Owed & Termination,
- Deceased Tenants,
- Existing Tenant Search,
- Failed EIV Pre-Screening,
- Failed SSI Identity Test,
- Identity Verification,
- Multiple Subsidy,
- New Hires,
- No Income Report by HHA or SSA,
- No Income Reported on 50058,
- Summary of Household Information.

The HAs that choose to use the EIV Income Discrepancy Report<sup>6</sup> and other EIV reports at intervals other than reexaminations must include this information in their Administrative Plan, as applicable. The HHA will use the following schedule for EIV:

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<sup>6</sup> HUD intends to update the discrepancy logic for the Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the HOTMA final rule. PHAs are not required to investigate discrepancies resulting from the Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic.

<b>HHA's Use of EIV</b>		
<b>Report Title</b>	<b>Report Description</b>	<b>Frequency of Use</b>
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission.
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database. *PHAs that admit families using a self-certification of SSN must review the Failed SSN Verification Report	Monthly

	monthly to identify and follow up on new issues.	
Identity Verification Report	Identifies tenants that failed SSA verification, and failed EIV pre-screening.	Monthly
Income Information for PIH Programs	<p>Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test.</p> <p>Identifies tenants who:</p> <ul style="list-style-type: none"> <li>• May not have reported complete and accurate income information; and/or</li> <li>• May be receiving multiple subsidies.</li> </ul>	<p>Must be used at annual reexamination; not required at interim reexaminations. PHAs may use, if desired. PHAs are not required to use at annual reexamination if they use Safe Harbor verification to determine the family's income.</p>
Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	<p>PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. PHAs are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination.</p>
Multiple Subsidy Reports	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly.
New Hires Reports	Identifies tenants who have new employment within the	PHAs must review this information at annual

	last six months. Report is updated monthly.	reexamination except when the PHA uses Safe Harbor verification to determine the family's income. PHAs that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA's policy is to require an IR for increases in income after an IR decrease, then the PHA must review the report quarterly after the family's IR decrease.
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must obtain written, third-party verification of any income reported by the tenant.	As identified in a PHA's Administrative Plan.

## 2. EIV and Annual Reexamination v Interim Reexamination

PHAs must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

The HHA will not access the EIV system verify tenant employment and income information during an interim reexamination of family composition and income.

### 3. EIV Security

#### a. Security Personnel

The Executive Director has appointed a Security Officer to supervise and enforce the security procedures. Currently, the Assistant Director, serves in this capacity. The Security Officer's responsibilities include keeping records, logs and monitoring EIV security issues. The Security Officer reads and disseminates training materials and trains the appropriate departmental staff concerning the handling of files containing EIV data. These materials will be disseminated prior to working with the EIV data initially as well as yearly thereafter.

Access to EIV data is limited to persons whose duties or responsibilities require access. The level of access will also be limited to the functional areas of specific users as required. Any staff member who may need access or may need to have their status revoked will be reported to the Security Officer. If there is any unauthorized use of the system, the Security Officer will notify the Executive Director immediately and secure documentation of any security violation. The Executive Director or his/her designee shall notify the HUD Field Office PIH Director of any unauthorized use of the system.

### 4. Enterprise Income Verification Files

Information from Enterprise Income Verification websites will be downloaded only with a signed HUD Form 9886 Release Waiver, signed by each Household member 18 years of age or older, on file. The data pertaining to only one family will be maintained in a file. This data will be maintained in the same confidential manner as all tenant data.

Participating Family files are kept in file cabinets in an office with a door that locks. The external entrance doors to all sites are secured and alarmed. During normal operating hours, a staff member greets all visitors in the office. The general public does not have access to the room where confidential data are maintained unless accompanied by the Assistant Executive Director. Visitors are always escorted by HA staff in all areas that may contain confidential data. After hours, staff must access the building through an alarm code system.

### 5. Enterprise Income Verification Computer Files

Computerized data is handled in the following manner:

1. Data downloaded from the Enterprise Income Verification system will not be saved to a hard drive.
2. If the information is saved to a local drive (recordable disc), then it must be kept separately from all HA data.
3. Any disk must be marked "Confidential."
4. Specific computers in locked areas will be used to access EIV data.
5. When possible, one printer in each office will be designated to print EIV data.
6. Printouts of EIV data will be collected from the printer immediately.

#### **6. Destruction of Enterprise Income Verification Data**

The EIV data is kept in the Tenant file for at least seven (7) years. EIV data will be shredded upon completion of seven years unless it is within an initial lease packet, which requires it to be kept until the tenant moves to another unit.

Any miscellaneous or duplicate copies printed that must be destroyed prior to the three year period will also be shredded.

#### **7. Upfront Income Verification (UIV) using non-HUD systems Level 5 (High)**

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. Examples include the Work Number (an automated verification system) and state government databases, to verify tenant-reported income.

#### **8. Written third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification Level 4 (High)**

The HHA may choose either tenant-provided verification or EIV + Self-Certification when both are available to verify income.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-



Certification.” The EIV Income report will be dated within 120 days prior to the reexamination effective date.

The HHA will use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)

Written, third-party verification or tenant provided verification is an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA. For fixed-income sources, dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant). The HHA may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following:

- ☐ Pay stubs
- ☐ Payroll summary reports
- ☐ Employer notice or letters of hire or termination
- ☐ SSA benefit verification letters
- ☐ Bank statements
- ☐ Child support payment stubs
- ☐ Welfare benefit letters or printouts
- ☐ Unemployment monetary benefit notice
- ☐ Veterans Administration letters
- ☐ Retirement Benefit Letters
- ☐ Investment Company Statement
- ☐ City or County Court orders
- ☐ Life Insurance Company Statement
- ☐ Investment Group Statement

The HHA will obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when not using EIV + Self-Certification or the income type is not reported in EIV.

For new income sources or when two pay stubs are not available, the HHA will determine income based on the information from a traditional written, third-party verification form or the best available information. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal

receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, the HHA will obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

Verifications received from the third party electronically via computer e-mail, by fax machine, via an on-line database system, or directly from the source, are considered by the HHA to be written third party verifications.

The HHA reserves the right to reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Information verified on the internet is considered by the HHA to be written third-party verification if the HHA is able to view and print web-based information from a reputable source on the computer screen.

#### **9. Third Party Form Level 3 (Medium)**

The HHA generally does not use Third-Party Form and will skip this level of verification and attempt Level 2, which means they will have only completed Level 2 verification before moving to Self-Certification.

#### **10. Oral Third-Party Verification (Level 2 - Medium)**

If HHA has if written third party verification is not used, the PHA will attempt oral third-party verification

When a third-party oral verification is used, HA staff to note in the file:

- the name of the person contacted
- the date of the conversation, and the facts provided.

The HHA will not delay the processing of an application beyond ten days because a third-party information provider does not return the verification in a timely manner.

The HHA may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification

#### **11. Level 1 Non-Third-Party Verification: Self-Certification**

If it is not possible to contact the third party by telephone due to either the agency's documented policy of not releasing information over the telephone, or unavailability of the third party, the HA will note the file and proceed to the next ranking verification source, Self Certification. The HA will not delay the processing of an application beyond ten working days because a third-party information provider does not return the verification in a timely manner.

The family may be required to certify that they do not receive a particular benefit or type of income.

The HHA will require that the self-certification be signed in the presence of HHA staff or notarized. A notarized self-certification means a family signed and dated affidavit/certification/statement under penalty of perjury in the presence of a notary public.

### **C. Length of Time Verification Is Acceptable**

This provision is currently effective as the HHA has adopted them in advance of full HOTMA implementation as permitted by HUD.

Unless otherwise noted herein, an original or authentic document generated by a third-party source dated within 120 days of the date received by the HHA is acceptable verification. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

### **D. Policies Regarding Certain Items Verified and Methods Utilized**

These policies are currently effective

#### **1. Proof of Identity**

##### **a. Applicant Identification**

The HHA requires each adult member of an applicant family to provide proof of identity in the form of a government issued photo identification card. The card must,

at a minimum, identify the adult by name and date of birth and must be a valid, unexpired, card.

A live-in aide must provide a photo identification card at the time the family requests HA approval of the aide. The card must be valid (not expired) and must, at a minimum, identify the aide by name and birth date, but need not be of government issue. If the photo identification is not government issued, the aide must also provide one additional form of identification. A copy of both forms of identification must be maintained in the client folder for as long as the aide resides with the family. No adult shall be admitted to an assisted housing program unless he or she has provided the HA with a valid photo identification card. A copy of each identification card shall be maintained in the client folder.

When minors in the assisted family reach the age of 18, they shall be required to provide a government issued photo identification card for the client folder at the first reexamination of income following their 18th birthday.

## **2. Participant Identification**

At the time of any annual reexamination, including one performed at the time of recontracting, each adult member of the family, including any approved live-in aide, must provide proof of identity in the form of either:

1. A government issued photo identification card, or
2. A non-government photo identification card and one other form of identification.

All identification must be valid and current.

Failure to provide appropriate identification shall not be sufficient to delay the reexamination process, but failure to provide appropriate identification, or documentation that the family has undertaken actions to obtain proper identification within 30 days of the HA's request shall be considered a violation of the family's obligations and grounds for termination of assistance.

## **3. Provision of Social Security Numbers**

This section does not apply to those who do not contend to have eligible immigration status.

### **a. Information required for Disclosure of Social Security Number**

#### **i. Documentation**

Disclosure of Social Security Numbers (SSN) requires submission of the following:

- The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance applicant's household; and
- A valid SSN card issued by the Social Security Administration; or
- An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual; or
- Such other evidence of the SSN as HUD may prescribe in administrative instructions.

HUD has indicated that PHAS may accept a self-certification and a third-party document with the applicant's name printed on it. The PHA will generally not accept this as verification.

In rare and compelling circumstances when no other document is available to the family, the HA may accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

The HA will document why the other SSN documentation was not available. If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA will obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance will be terminated if they fail to provide the required documentation.

#### **4. Rejection of documentation**

The HA may reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged. In such cases the HA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HA within 90 days.

## 5. Requirements for Applicants

Applicants must submit disclosure information set forth in A above.

If an applicant is otherwise eligible to participate in a program, the applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the documentation to verify the SSN of each member of the household as set forth in A above.

However, if a child under the age of 6 years was added to the assistance applicant household within the 6-month period prior to the household's date of voucher issuance, the assistance applicant may become a participant, so long as the documentation required is provided to the processing entity within 90 calendar days from the date of admission into the program (or, for the HCV program, the effective date of the Housing Assistance Payment contract). The HA must grant an extension of one additional 90-day period if the HA determines that, in its discretion, the assistance applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the assistance applicant. If the applicant family fails to produce the documentation required under the rule within the required time period, the Ha will follow the provisions of 24 CFR §5.218.

## 6. Participants

The HA has obtained and verified SSNs for all participants, except those age 62 or older as of January 31, 2010.

- i. Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN

When the participant requests to add a new household member who is at least 6 years of age or is under the age of 6 and has an assigned SSN, the participant must provide the information set forth in 2a above.

7. Addition of new household member who is under the age of 6 and has no assigned SSN

When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child as described in A above to verify the SSN for each new child within 90 calendar days of the child being added to the household.

Further, the HA will grant an extension of one additional 90-day period if the HA, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant. During the period that the HA is awaiting documentation of a SSN, the HA shall include the child as part of the assisted household and the child shall be entitled to all the benefits of being a household member. If, upon expiration of the provided time period, the participant fails to produce a SSN, the HA will follow the provisions of 24 CFR §5.218.

#### **8. Assignment of New SSN to Participant**

If the participant or any member of the participant's household has been assigned a new SSN, the participant must submit the information set forth in A above to HA at either the time of receipt of the new SSN; at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification; or at such earlier time specified by the HA.

#### **9. Proof of Age**

The HHA requires proof of age for each member of the assisted family and any subsequent additions to the family. The following are acceptable forms of age verification:

- Birth Certificate or Certificate of Verification of Live Birth,
- Other Official Record of Birth,
- Baptismal Certificate,
- Census Record or Census Document showing age,
- Driver's License,
- State ID Card,
- Other identification cards issued by a federal, state or local agency,
- Adoption papers that specify age,
- Military discharge records,
- Naturalization certificate or other INS documents,
- Proof of receipt of old age benefits (SS or SSI for persons age 62 or older),
- Court records that specify a date of birth,
- Life insurance policies that specify a date of birth,
- Retirement Award or Benefit letters that specify a date of birth or age,
- Veterans Administration records,
- Valid passport.

## **10. Evidence of Citizenship**

The HA requires applicants and participants of its Section 8 programs to submit evidence of citizenship or eligible immigration status in accordance with the HUD regulations governing *Restrictions on Housing Assistance to Noncitizens*.

The Housing Authority does allow for the self-certification of Citizenship using the Declaration form and will not require additional verification of the same unless fraud is suspected. Documentation of eligible noncitizen status is governed by the regulations addressing the same. See also Eligibility Section of this document.

## **11. Verification of Disability**

Disability for purposes of Deductions shall be verified only by:

- Proof of disability provided through EIV verification;
- Proof of disability provided through a third-party verification from the Social Security Administration;
- A third party verification of disability provided by a health care or service provider, a qualified professional having knowledge of the person's disability, who can verify that the person meets HUD's definition of disability (not a certification of disability for reasonable accommodation);
- Document review of a Social Security or SSI benefit statement.

Disability is not verified by receipt of VA disability pay or by a statement indicating that a person meets the disability standards for reasonable accommodation.

## **12. Bonds**

To determine the current value of a bond in the absence of third-party verification from a broker staff may use a website with a treasury department calculator provides the issue price of the bond, total interest earned to date, current value and current interest rate. The current value is used as the net value of the bond (asset). Annual income is the current value times the interest rate. If the interest rate column is blank, it means the bond is no longer paying interest. Printed calculator page results may be used as a third-party verification.



### **13. Checking and Savings Accounts**

#### **a. Cash Value and Income from Bank Accounts**

For bank accounts with monthly statements, the HA uses the average closing balance of the most recent three consecutive months as the cash value of the asset.

For bank accounts with quarterly statements the HA uses the closing balance of the most recent quarterly statement.

For passbook savings accounts with no regular statements, the HA uses the closing balance of the passbook provided that the passbook has been updated by the savings institution within 120 days of the date the passbook is presented to staff for document review.

The HA uses the current interest rate being paid by the financial institution to determine actual income from savings, checking and other accounts.

### **14. Certificates of Deposit and Money Market Accounts**

The HA uses the current interest rate being paid by the financial institution to determine actual income from certificates of deposit and similar accounts.

### **15. Joint Accounts**

If a member of the family has unrestricted access to the account and can withdraw money from the account, the entire value of the account is counted as his or her asset. If the family member merely has survivorship rights and has no access to the funds until the other party dies, then the funds are not counted. The family must demonstrate that it either has no access to the asset or that it has access only to a portion of the asset.

If the person's social security number is on the account for tax purposes, income from the asset should be considered as going to that person. If the asset is owned by two or more family members in the same household, prorate the asset (and income from the asset) evenly among all owners unless the family can document otherwise.

## **16. Mutual Funds and Stocks**

Staff must initially attempt to obtain information on mutual funds and stocks from the family's broker or have the family certify that it does not use a broker. If information cannot be obtained from a broker, staff may accept information received from the family in the form of the most recent quarterly statements.

Staff must verify family-provided information by use of screen prints of information which may be used as third party verification of the current value of stocks, mutual funds and annual returns from dividends.

To determine the costs of converting stocks or mutual funds to cash staff uses information provided by the family's broker or financial institution.

## **17. Real Property**

### **a. Market Value of a Single-Family Residence**

In determining the market value of a single-family residence or a condominium in the area where no third-party broker or real estate agent's information is available on the unit, the HA shall determine the market value by:

- ☐ Determining the square footage of living space, and
- ☐ Multiplying the square footage times the median sales price per square foot for the appropriate area.

## **18. Costs of Sale of a Property**

If a family has sold a property but cannot provide verification of the costs of sale through a broker, financial institution or escrow company, the HA will impute costs of sale equal to 7% of the market value.

To determine the cash value of a property, the HA shall use 7% of the fair market value as the imputed costs of sale unless the family provides a third party written estimate.

This section is not intended to modify or supersede the Asset Limitation rules.

## **19. Resident Stipends**

A family member is entitled to an exclusion from annual income for only one resident stipend at a time (and not to exceed \$200.00 per month).

If a family member receives more than one stipend during the same time frame, the HA excludes from annual income only the highest stipend received so long as it does not exceed \$200.00 per month for the family member.

The HA may, if the amount of the stipend changes throughout the year, pro-rate the amounts accordingly so as to arrive at an average monthly amount for the entire year.

## **20. Credit Checks**

The HA may conduct credit checks of participant families at annual reexaminations and at any time there is reasonable cause to believe that the family has not reported income or family composition in accordance with program requirements. Credit check results are reviewed for information that appears inconsistent with the family's report of income and family composition. Inconsistencies are investigated.

## **21. Social Security and Supplemental Security Income (SSI) Verification**

**Verification** - Once the HHA has established access to HUD's EIV system a HUD EIV query must be the primary method of verifying Social Security and SSI income for all participants. The results of the HUD EIV query, or a print-out that indicates no record, must be filed in the client folder. If HUD EIV had no record, then third party verification is skipped, and staff must use tenant-provided Social Security or SSI income verification. The family may obtain this written verification by using the Social Security toll-free number (1-800-772-1213) or requesting verification over the Internet website [www.ssa.com](http://www.ssa.com).

If a participant provides any Social Security or SSI verification that was not computer generated (including a manually completed HHA form), the information must be verified orally in accordance with the section on third-party oral verification, above. Verification information for Social Security or SSI benefits must be stapled to the HUD EIV report and staff will document why information from other than the HUD EIV system is being used. All family provided information must be no more than 120 days old at the time of receipt.

**Social Security and SSI Discrepancies with HUD EIV** - If there is a discrepancy in amounts between information provided by the HUD EIV system and information provided in a computer-generated Social Security Administration notice provided by the family, the most recent information will be used. Staff will document why a computer-generated notice is being used rather than HUD EIV. Verifications that are handwritten (even on a HHA form) will not be used unless they were received directly from the Social Security office or were verified orally in accordance with the section on third-party oral verification, above.

## **22. Seasonal, Sporadic or Irregular Employment**

When calculating anticipated annual income for family members whose employment is seasonal, sporadic or irregular, the actual earnings from the past 12 months are used if the family member intends to continue in the same type of employment. A special reexamination may be scheduled as needed.

## **XIII. Termination of Assistance**

### **A. Introduction**

The Housing Authority may terminate assistance for a family because of the family's action or failure to act.

### **B. Form of Termination**

Termination of assistance for a participant may include any or all of the following [24 CFR §982.552(a)(3)]:

- a) Refusal to enter into a HAP contract or approve a lease
- b) Termination of HAP under an outstanding HAP contract
- c) Refusal to process or provide assistance under portability procedures

### **C. Definitions**

1. Drug-related criminal activity

**Drug-related criminal activity** is defined in 14 CFR Part 5.100 as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

An “illegal drug” is defined as any controlled substance, in any amount, as defined by the United States Code, Title 21, section 802, including but not limited to narcotics, amphetamines, hallucinogens, cocaine, marijuana, designer drugs, or other intoxicants. This definition also specifically includes over the counter medications used in the manufacture of illegal drugs or for the purposes of becoming intoxicated, and pharmaceutical medications which are used either without being prescribed by a licensed physician or in excess of the amount prescribed by a physician for the purposes of becoming intoxicated.

2. Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered or is recovering from the addiction and does not currently use or possess the substance and has demonstrated successful completion of a rehabilitation program [24 CFR §982.553(b)].

In such cases the HA will require a Family member who has engaged in the illegal use of a controlled substance to submit verifiable evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the Unit.

### 3. Violent criminal activity

**Violent criminal activity** includes any 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 is being engaged in by any family member, their guests or invitees. Violent criminal activity also includes activity which occurs within the family, such as during domestic disputes.

### 4. Preponderance of Evidence

In determining whether to terminate assistance based on criminal activity, the Housing Authority may terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

The Housing Authority may consider arrests, convictions, no contest pleas, fines, city ordinance violations or other credible preponderance of evidence in determining if a violation has occurred.

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

#### **D. Mandatory Termination**

The Housing Authority must terminate assistance for participants under the following conditions:

- a. If any member of the family fails to sign and submit to HUD or Housing Authority required consent forms for obtaining information [24 CFR §982.552(b)(3)].
- b. If a member of the family has failed to submit required evidence of U.S. citizenship or eligible immigration status [24 CFR §982.552(b)(4)].
- c. If 180 calendar days have elapsed since the Housing Authority's last housing assistance payment was made.
- d. If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education. [24 CFR §5.612].
- e. If any member of the family has been evicted from federally assisted housing for a serious violation of the lease. [24 CFR §982.552 (b)(2)].
- f. If any member of the family has ever been convicted of drug-related criminal activity for *manufacture* or production of methamphetamine on the premises of *federally* assisted housing; [24 CFR §982.553]

### **E. Discretionary Grounds for Termination of Assistance**

The Housing Authority may at any time terminate program assistance to 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 [24 CFR §982.552(c)(1)(i)].
2. Any member of the family has been evicted from federally assisted housing within the past 5 years [24 CFR §982.552(c)(1)(ii)].
3. A PHA has terminated assistance under the program for any member of the family. [24 CFR §982.552(c)(1)(iii)].
4. If any member of the family has committed fraud, bribery or any other corrupt or criminal act in connection with Section 8 or other public housing assistance under the 1937 act.
5. The family currently owes rent or other amounts to the Housing Authority or to another housing agency in connection with Section 8 or public housing assistance under the 1937 Act [24 CFR §982.552(c)(1)(v)].
6. The family has not reimbursed the Housing Authority or any housing agency for amounts paid under a HAP contract to an owner for rent, damages to the unit, or other amounts owed by the family under the lease [24 CFR §982.552(c)(1)(vi)].
7. The family breaches an agreement with any housing agency to pay amounts owed to any housing agency, or amounts paid to an owner by any housing agency [24 CFR §982.552(c)(1)(vii)].
8. A family participating in the family self-sufficiency (FSS) program fails to comply, without good cause, with the family's FSS contract of participation (COP) [24 CFR §982.552(c)(1)(viii)].
9. The family has engaged in or threatened abusive or violent behavior toward Housing Authority personnel [24 CFR §982.552(c)(1)(ix)].

"Abusive or violent behavior" 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.

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

Actual physical abuse or violence will always be cause for termination.

10. Failure to fulfill the obligations and conditions of the Welfare to Work program is grounds for termination of assistance. [24 CFR §982.552(c)(1)(x)]
11. Any household member engages in criminal activity or alcohol abuse as described in 24 CFR §982.553. Specifically,

1. Drug Related Criminal Activity;

Any household member is currently engaged in any illegal use of a drug; or  
982.553 (b) (1) (i) (A)

A pattern of illegal use of a drug by any household member *interferes* with the health, safety, or right to peaceful enjoyment of *the* premises by other residents,  
982.553 (b) (1) (i) (B) or

The HA determines that any family member has violated the family's obligation under Sec. 982.551 not to engage in any drug-related criminal activity. 982.553 (b) (i) (ii)

The Housing Authority maintains a zero-tolerance policy regarding drug-related criminal activity and:

- May terminate assistance for drug-related criminal activity that occurs on or off the premises of the assisted unit, or drug related criminal activity committed by a guest or invitee of any family member on the premises of the assisted unit. An arrest or conviction is not required to deny or terminate assistance.
- May terminate assistance if the family violates the lease for drug-related criminal activity.



- Arrest or conviction is not needed for termination of assistance.
2. Violent Criminal Activity; [24 CFR §982.553(a)(2) and (b)(2)]
  3. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the Premises by other residents or persons residing in the immediate vicinity; or
  4. Other criminal activity which may threaten the health or safety of the Owner, property management staff, or persons performing a contract administration function on behalf of the HA (including a HA employee or a HA contractor, subcontractor, or agent), or
  5. Alcohol abuse; [24 CFR §982.553 (b) (3)] The PHA will terminate assistance for a family if *the* PHA determines that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
  6. For the purposes of this provision, “reasonable time” will depend on the individual circumstances including but not limited to the seriousness of the crime and number of matters under consideration.

#### **F. Considerations in Certain Terminations**

1. *Consideration of circumstances generally.* The HA has the discretion to consider all of the circumstances in each case including, but not limited to, the seriousness of the offense, the extent of the criminal history, the extent of participation by Family members, and the effects that termination will have on Family members not involved in the alleged activity.
2. *Reasonable Accommodation.* The HA shall consider a request for Reasonable Accommodation by a Participant who has a disability or handicap, has a record of a disability or handicap, or is perceived as having a disability or handicap.
3. *Mitigating Circumstances.* The HA shall consider mitigating circumstances such as active participation in, or completion of, a supervised drug treatment program.

4. *Retention of assistance by a portion of the Family.* The HA may, in its discretion, allow only a portion or certain members of the Family to remain on the HCVP, if there is sufficient evidence that the Family member who engaged in the alleged activity will not reside in the Unit or if the Head of Household certifies that the Family Member who engaged in the alleged activity will not reside in the Unit.
5. *Minors.* If the violating member is a minor, the Housing Authority may consider individual circumstances with the advice of Juvenile Court officials.
6. *Project based vs. tenant-based assistance.* The HA may consider whether the Participant receives project-based assistance, which has as one of its components supportive services that may be appropriate for the participant.
7. *Domestic Violence.* The HA may consider an incident or incidents directly related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking as mitigating circumstances when the incident or incidents of Domestic Violence, Dating Violence, Sexual Assault, or Stalking is directly related to the reason for termination. Under 24 CFR 5.2005(b), criminal activity directly related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim.

## **G. Family Obligations**

As indicated elsewhere within this within this Plan, failure to abide by any of the family obligations is grounds for termination. Family obligations are as follows:

1. Supplying Required information [24 CFR §982.551 (b) (1)]

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 part 5). "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by the PHA or

HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

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

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

2. NSPIRE breach caused by family. The family is responsible for an HQS breach caused by the family for
  - Failure to pay for tenant-paid utilities
  - Failure to furnish required stove and or refrigerator if to be provided by family; or
  - Damage to the unit or grounds by the family or its guests beyond normal wear and tear.
3. Allowing PHA inspection. The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.
4. Violation of lease. The family may not commit any serious or repeated violation of the lease. Under 24 CFR 5.2005(a), an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or Stalking will not be construed as a serious or repeated lease violation by the victim or threatened victim of the domestic violence, dating violence, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.
5. Family notice of move or lease termination. The family must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner. See Sec. 982.314(d).
6. Owner eviction notice. The family must promptly give the PHA a copy of any owner eviction notice.
7. Use and occupancy of unit—
  - i. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- ii. The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide as provided in this Plan).
  - iii. The family must promptly notify the PHA if any family member no longer resides in the unit.
  - iv. If the PHA has given approval, a foster child or a live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in-aide and defining when PHA consent may be given or denied.
  - v. Members of the household may engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.
  - vi. The family must not sublease or let the unit.
  - vii. The family must not assign the lease or transfer the unit.
8. Absence from unit. 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 promptly notify the PHA of absence from the unit.
9. Interest in unit. The family must not own or have any interest in the unit.
10. Fraud and other program violation. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
11. Crime by household members. The members of the household 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 (see Sec. 982.553). Under 24 CFR 5.2005(b), criminal activity directly related to domestic violence, dating violence, or Stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or immediate family member of the tenant is the victim.

12. Alcohol abuse by household members. 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.
13. Other housing assistance. 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 duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

#### **H. Registered Sex Offenders**

If it is brought to the attention of the Housing Authority that a participant is on the sex offender registration list, the Housing Authority will review the matter on a case-by-case basis. The Housing Authority will consult with law enforcement and legal counsel and take appropriate actions based on findings.

#### **I. Procedures for non-Citizens**

The Housing Authority is required to terminate assistance for participant families in which no members are U.S. citizens or eligible immigrants. If a family member does not establish citizenship or eligible immigration status as required, the Housing Authority will prorate the assistance, or if there are no eligible family members remaining, the Housing Authority will propose program termination and provide the opportunity for an informal hearing as required under HUD's Restrictions on Assistance to Noncitizens Rule.

The Housing Authority will terminate assistance for misrepresentations or submission of false information.

All Noncitizen rule matters will be governed by HUD regulations covering, Restrictions on Assistance to Noncitizens as set forth within the applicable CFR sections. Also see eligibility section of this document.

#### **J. Zero Assistance (End of Participation)**

The Housing Authority is required to automatically terminate the HAP contract 180 calendar days after the last housing assistance payment is made to the owner. A family receiving no assistance may remain in the unit for up to 180 calendar days after the last HAP payment. If the family is still in the unit after 180 calendar days, assistance is

terminated. If within the 180-day period, an owner rent increase or a decrease in the TTP causes the family to be eligible for a housing assistance payment, the Housing Authority will resume assistance payments for the family.

In order for a family to move to another unit during the 180 calendar days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

#### **K. Restriction on Leasing to Relatives**

The family must not receive housing choice voucher program housing assistance while residing in a unit owned by a spouse, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the Housing Authority has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

#### **L. Option Not to Terminate for Misrepresentation of Income**

If the family has misrepresented any facts that caused Housing Authority to overpay assistance, the Housing Authority may choose not to terminate at that time and may offer to continue assistance provided that the family agrees to pay the Housing Authority the amount owed and either pays the Housing Authority in full or executes a Repayment Agreement and makes payments in accordance with the agreement as addressed in greater detail in the section entitled, Payments by Families who Owe Money to the HA in this Administrative Plan.

#### **M. Missed Appointments and Deadlines**

It is a family obligation to supply information, documentation, and certifications as needed for the Housing Authority to complete required processes. The Housing Authority schedules appointments and sets deadlines in order to obtain the required information. Failure to supply requested information can result in termination of assistance. Examples of failing to supply requested information can include failing to sign necessary documents, failing to return documents or returning incomplete or altered documents and failing to complete all information requested on documents.

The obligations also require that the family keep all appointments and allow the Housing Authority to inspect the assisted unit. All scheduled inspections are considered “appointments.”

Appointments are scheduled and time requirements imposed for the following events and circumstances:

1. Eligibility for Admissions;
2. Verification Procedures;
3. Voucher Issuance and Briefings;
4. Inspections;
5. Reexaminations; and
6. Appeals (Informal Hearing/Reviews).

Examples of good cause for missing appointments or failing to provide information by deadlines are medical and/or family emergencies. In such cases, the family may be requested to provide verification of such circumstances.

An applicant or participant who fails to keep appointments, including HQS inspection appointments, or to supply information required by a deadline without notifying the Housing Authority may be sent a notice of termination of assistance for failure to comply with program regulations.

The Housing Authority may grant exceptions to this policy as a reasonable accommodation.

#### **N. Reporting Terminated Families to Enterprise Income Verification System (EIV)**

If a family is terminated due to an adverse action or leaves the program owing money to the Housing Authority, the family will be reported to EIV. Additionally, if any debt is owed, the amount of the debt will be recorded in EIV.

#### **O. Owners**

Nothing in this section limits or affects PHA rights and remedies against an owner under a HAP contract.

## **P. Statutory and Regulatory Changes and HUD Directives**

Nothing in the plan serves to limit the Housing Authority from terminating assistance on grounds authorized by State, Federal or local law or other provisions applicable to the Section 8 HCV program.

### **XIV. Administrative Matters**

#### **A. Denying Family Requests to Move Due to Insufficient Funding**

##### **1. Introduction**

If the HHA approves a family's request to move and then subsequently experiences a funding shortfall, the HHA may only rescind the voucher if the family is allowed to remain in its current unit. If the family cannot remain in the unit (e.g. family has already vacated the unit or family has already notified the owner of their intent to vacate, and the owner has re-let the unit to another family) the HHA will not rescind the voucher. And the family will be allowed to lease a new unit. This requirement applies to moves within the PHA's jurisdiction and to portability moves.

##### **2. Definitions**

*Higher cost unit:* is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit.

*Higher cost area:* is defined as an area where the HHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA (e.g. the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA).

##### **3. When the HHA May Deny a Move Due to Insufficient Funding**

The HHA may only deny a request to move due to insufficient funding if all of the following applies:

- a. The move is to a higher cost unit (for moves within the HHA's jurisdiction) or to a higher cost area (for portability moves).



The HHA may not deny requests to move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family. PHA may not deny requests to move due to insufficient funding if the area the family has selected is not a higher cost area.

Further, the HHA will not deny the move for families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g. the unit failed HQS, the owner failed to renew the lease, etc.). However, if the family is moving under portability, the PHA may deny the move under these circumstances if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.

4. The receiving PHA is not absorbing the voucher (applicable only to portability moves).

The HHA may not deny a family request to move under portability if the receiving PHA has confirmed that they will absorb the family into their program. In such cases, the initial PHA has no grounds to deny the portability move under 24 CFR § 982.354(e) (1).

5. The HHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

The HHA will not deny a family's request to move due to insufficient funding because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available to do so. If the HHA denies a family's request to move, it may not subsequently admit families from its waiting list to its HCV program until families with open requests to move are processed.

## 6. Notifying the Local PIH Field Office

The HHA will provide written notification to the local PIH field office within 10 business days of the date on which the PHA determines it is necessary to deny family moves due to insufficient funding. Only one notification per calendar year will be provided and it will include the following:

- A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. (See Determining Whether There Is Sufficient Funding)
- A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves is in place.
- A copy of the PHA's policy stating how the PHA will address families who have been denied moves.

The HHA does not need prior HUD approval to deny a family move for insufficient funding, subject to the section entitled Improper Denial of Requests to Move.

## 7. Determining Whether There Is Sufficient Funding

In projecting whether there is sufficient funding available for the remainder of the calendar year, the HHA will make reasonable estimates to factor in conditions such as pending rent increases that would affect the subsidy and the attrition rate for families leaving the program. The HHAs will not include projected costs for vouchers issued to families from the waiting list but not yet leased as part of this analysis. Vouchers issued to those on the waiting list will not be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and the PHA is legally obligated to make HAP payments. An initial HA as may also consider any reported changes in the family's income or composition that may result in a decreased subsidy amount.

The HHA may use the two-year forecasting tool is available on HUD's website to assist in determining if sufficient funding is available to support a move. However, the HHAs is not required to use this tool and may choose to use other tools.

## 8. Specific Policies Addressing Denial of Family Moves for Insufficient Funding

- a. Notice to families of the PHA's local policy regarding moves denied due to insufficient funding

At the time a family is denied a move due to insufficient finding they will be provided with a letter explaining that the move is denied for such reason. This letter will inform them that they will be contacted in writing on or before January 1<sup>st</sup> of the following calendar year with the status of the matter. Further, the letter will explain that at such

time as adequate exists they family will be informed of such fact and notified that they have the right to resubmit a Request for Tenancy Approval for the higher cost unit or area.

The family will also be notified in the initial letter that they may still relocate to (1) a unit which is not of higher cost (2) to an area which is not of higher cost or (3) to a higher cost unit or areas if a receiving PHA will absorb them into their program.

b. How long the family's request to move will be open for consideration

The family's request for move to a particular higher cost unit or area will be removed from consideration at such time as it is denied for one of the reasons set forth herein. However, the family will be informed at such time as adequate funding exists that they may submit a Request for Tenancy Approval for a higher cost unit or area.

c. How the PHA will notify families with open requests when funds become available

The HHA will maintain log of families denied moves due to inadequate funding. Families will be sent a letter on or before January 1<sup>st</sup> of the following calendar year with the status of the matter. Further, the family may be contacted earlier if adequate funding to support the move to a higher cost unit or area. At that time the family will be notified that they have the right to resubmit a Request for Tenancy Approval for the higher cost unit or area. Families will be contacted in the order they were denied the move (first denied shall be the first contacted).

d. Improper Denial of Requests to Move

If HUD determines that the HHA lacks grounds to deny moves due to insufficient funding, the HHA will immediately inform any affected family and immediately process the family's request to move.

## **B. Termination of HAP Contracts Due to Insufficient Funding**

### **1. Introduction**

The Housing Authority (HA) may terminate the Housing Assistance Payments (HAP) contract if the HA determines that funding under the consolidated ACC is insufficient to support continued assistance for families in the program. (24 CFR 982.454)

In the event that the HA's Annual HAP Budget Authority is insufficient to support the number of Families currently under contract in the Section 8 program, the HA will analyze data to determine the number of Section 8 contracts that must be terminated due to the lack of sufficient funding. The HA shall employ the following guidelines when terminating assistance due to insufficient funding. Vouchers with special purpose funding will receive special attention in accordance with PIH 2012-09 and are addressed specifically within this policy.

The HA will notify the HUD field office and its financial analyst at the Financial Management Center (FMC) prior to issuing notices of termination actions due to insufficient funding. The notice will be in writing and must include all measures taken to date to reduce or eliminate the shortfall and the number and date(s) of proposed termination.

## **2. Ongoing Funding Analysis**

On a monthly basis the HA reviews per unit costs (PUC) and leasing and attrition rates. In the event that vouchers are over leased and/or HAP funds are over-utilized, the Section 8 Department will initiate appropriate corrective action to decrease leasing or utilization as applicable.

## **3. Cost Containment Measures**

The Housing Authority will, to the extent necessary under program circumstances, employ the following measures to ensure cost containment:

- i. Adjust Payment Standards;
- ii. Adjust Utility Allowances;
- iii. Ensure Reasonable Rents;
- iv. Adjustment of Subsidy Standards;
- v. Adjustment of Minimum Rent;
- vi. Income matching/verification Employment of Anti-Fraud Efforts;
- vii. Adjustment of Interim Adjustment Policies and Procedures;
- viii. Restrict the Issuance of Vouchers;

- ix. Suspend or Cancel Vouchers in search status;
- x. Place Leasing Moratorium into Effect; and or
- xi. Strengthen Enforcement of Participant Family Obligations.

Nothing in this section is intended to modify the Housing Authority's obligations under current law and the Housing Authority continues to comply with all policies and regulatory guidance in place in terms of program compliance notwithstanding its listing above. The HA will comply with these requirements, regardless of whether the HA is experiencing financial difficulties. However, HUD has issued guidance reminding the HA that there are certain proactive steps the HA may take within the context of some of these requirements to better manage HAP expenses.

#### 4. Declaration of Insufficient Funding

Prior to the termination of HAP contracts due to insufficient funding the Housing Authority will issue a formal, "Declaration of Insufficient Funding." This Declaration will be made in writing and signed by the Executive Director. Said Declaration will only be made after the following measures have been employed:

1. The HA has taken reasonable steps to contain costs as identified above and is still of the opinion that there will be insufficient funds to support the current or projected number of assisted families; and
2. The Housing Authority has investigated possible alternative sources of funds to support the current or projected assisted families.

The Declaration shall identify the amount of the shortfall, the steps to mitigate the shortfall and assessment of fiscal impact of continued HAP assistance at the projected rate.

#### 5. Request for Authorization to Terminate HAP Contracts

Authority to terminate HAP Contracts due to Insufficient Funding shall be vested in the Board of Directors and Approval to terminate HAP contracts shall be granted by resolution of the Board after consideration of the Housing Authority's, Request to Terminate HAP Contracts Due to Insufficient Funding. The Request to Terminate HAP Contracts Due to Insufficient Funding will be made in writing to the Board of Directors and shall state,

- a. The number and dollar value of HAP contracts to be terminated, and
- b. The timeline for HAP contract terminations.

Nothing within this section shall be deemed to supersede and requirement to notify HUD and comply with all HUD requirements with regard to termination of HAP contracts.

## 6. Administration of Housing Assistance Payment Contract Terminations

### a. Determining the Order of Contracts to be Terminated

The HA shall terminate HAP contracts due to insufficient funding based upon the date of the participant family's admittance to the Section 8 program. The family that was first admitted to the program, according to the first assisted lease date, shall be the first to have assistance terminated due to insufficient funding. (i.e. those assisted longest will have HAP contract terminated first.)

For this purpose, the HA shall consider the Family's first assisted lease date under the HA's Section 8 Program to be their date of admittance to the Section 8 tenant-based program.

### b. Contracts which will be Terminated Last

Contracts for a family in any of the following categories shall be terminated only after all other contracts<sup>7</sup> have been terminated:

- i. Elderly Family,
- ii. Disabled Family, or
- iii. Any Family that is under an agreement in the Homeownership program or subject to a HA relocation agreement.

### c. Notification of Owner

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<sup>7</sup> Contracts funded through funding for special purpose vouchers (SPVs) such as VASH, NED and FUP are required by HUD to be terminated last. Contracts assisted under these SPV Programs are excluded from this group of overall HAP contracts initially terminated. Thus, it is possible that a HAP could be terminated for a family in one of these situations (Elderly, Disabled, Relocation or Homeownership with HAPs still in place for SPV families. (See HUD Notice 2012-9)

The HA will provide the owner with written notice of, “Notice of HAP Contract Termination Due to Insufficient Funding.” Said Notice will comply with notice requirements under the existing HAP. The Notice will be sent to the owner via first class mail. A copy will be sent via first class mail to the participant.

Said Notice shall set forth

- i. The reason for termination,
- ii. Reference the regulatory grounds for termination of the HAP contract,
- iii. Effective date of HAP contract termination,
- iv. Rights and responsibilities of the owner, and
- v. The HA representative contact person.

d. Notification of Participant

The HA will provide the participant with written notice of, “Notice of Termination of Assistance Due to Insufficient Funding.” Said Notice will offer the family an Informal Hearing on the matter. However, the HHA may terminate the HAP contract in advance of this Informal Hearing. The Notice will be sent to the tenant via first class mail. A copy will be sent to the owner via first class mail.

Said Notice shall set forth

- i. The reason for termination,
- ii. Reference the regulatory grounds for termination,
- iii. Effective date of HAP contract termination,
- iv. Rights and responsibilities of the participant including the right to an informal hearing,
- v. Special assistance available from the HA,
- vi. The HA representative contact person, and
- vii. Participant rights regarding resumption of assistance if applicable.

## 7. Application for Section 8 Assistance

Participants with terminated HAP contracts may reapply for Section 8 Assistance by submission of an application for any open Section 8 waiting list. Termination of HAP due to insufficient funding is a no-fault termination on the part of the participant.

Participants may be entitled to a priority on certain Section 8 Waiting lists due to the termination of HAP. However, the Housing Authority will not automatically “resume” assistance to said families.

## **8. Special Purpose Vouchers**

The Department of Housing Urban Development is clear that HAs are required to fully lease their Special Purpose Vouchers (SPVs) and that the HA may only re-issue turnover SPVs to the same targeted population. Turnover of these vouchers are specifically governed by Housing Authority Notices on the subject.

To the extent that finding shortfalls impact assisted families HUD requires specific policies to address SPVs.

### **a. Issuance after Cessation of Issuance of Vouchers**

If the Housing Authority does have a funding shortfall and is not serving the required number of Family Unification (FUP), Nonelderly Disabled (NED) or Veterans Affairs Supportive Housing (VASH) families, the HA will first issue vouchers to FUP, NED and VASH families on the waiting list when it resumes issuing vouchers. This shall be the case until the HA is utilizing all its required number of SPVs. The Housing Authority shall issue to FUP, NED and VASH by date and time of application at such time as funding becomes available for reissuance of SPVs.

### **b. Termination of Contracts Funded for Special Purpose Vouchers**

The procedures set forth within this Section entitled, Termination of HAP Contracts Due to Insufficient Funding, generally shall apply to Special Purpose Vouchers. However, to the extent that the HA experiences a shortfall, HUD VASH, NED and FUP families that comprise the required number of families served will be the last to be terminated. In the event that termination becomes necessary in accordance with the procedures outlined within this Administrative Plan and HUD VASH, NED or FUP families require termination, the termination would occur in the order outlined for the generic non special purpose voucher (based upon lease date with exemptions for elderly and disabled). Further, resumption of assistance for these families would be set forth in the manner set forth in this Administrative Plan. Again, as required under PIH 2012-09, vouchers would be re-issued first to HUD VASH, NED or FUP families that comprise the required number to be served.



### **C. Payments by Families Who Owe Money to the HA**

Grounds for denial or termination of Section 8 Assistance include situations in which the family owes money to the Housing Authority. Tenants are required to reimburse the PHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the PHA will terminate the family's assistance. HUD does not authorize any HA sponsored amnesty or debt forgiveness programs.

The Housing Authority may, in its discretion, based on the facts and circumstances of the case, offer the family the opportunity to enter into a repayment agreement.

Factors considered in determining whether a repayment agreement will be offered include, but are not limited to, the following:

1. the amount of money owed;
2. the reason such money is owed and the extent of culpability on the part of family members;
3. the family's evidence of commitment and ability to make repayment.

All repayment agreements will be in writing, dated, signed by both the tenant and the HA, and will include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements will contain the following provisions:

- a. Reference to the paragraphs whereby the tenant is in non-compliance and may be subject to termination of assistance.
- b. The amount of monthly retroactive rent repayment payable to the HA.
- c. The fact that terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- d. The fact that late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

The period in which the retroactive rent balance will be repaid is based on the monthly payments and original retroactive balance.

Section 8 participants shall repay the retroactive rent balance as determined by the HHA as follows:

1. In a lump sum payment; or
2. Monthly installment; or
3. A combination of 1 and 2, above

In the event of breach of the agreement by the family (i.e. late or missed payments), the Housing Authority shall retain the right to terminate the agreement and move forward with termination of Section 8 Assistance on grounds originally available at the time of execution of the repayment agreement and on any additional grounds which have become applicable since the execution of the repayment agreement. No move will be processed pending such proceedings on breach of agreement unless to do so is required as a reasonable accommodation or is required under VAWA.

In the event that a family makes one or more late payments which are accepted by the HA, this shall not stop the HA from terminating the agreement at a later date for failure of the family to again make payment within the time parameter set forth in the repayment agreement.

The Housing Authority reserves the right to refuse to enter into a repayment agreement with a family if the HA is of the opinion that such agreement should not be offered based upon the facts and circumstances of the case. In such cases the Housing Authority will proceed with collection action as no amnesty or debt forgiveness programs are authorized by HUD.

No move will be processed until an agreement is paid in full unless to do so is required as a reasonable accommodation or is required under VAWA.

#### **D. Board Approval of Administrative Fee Reserves**

The Housing Authority must use funds in the administrative fee reserve to pay program administrative expenses in excess of administrative fees paid by HUD for an HA fiscal year. If funds in the administrative fee reserve are not needed to cover HA administrative expenses (to the end of the last expiring funding increment under the Consolidated ACC), the HA may use these funds for other housing purposes permitted by state and local law. However, HUD may prohibit use of the funds for certain purposes.

The Housing Authority Board of Officials, or other authorized officials have determined that \$600.00 may be charged against the administrative fee reserve without specific approval. All monies in excess of this sum will require approval of the HA Board of Officials or other authorized officials.

## **E. Signatures, Scanned Documents and Copies**

### **1. Use of Electronic Signatures**

Generally, the HHA requires original signatures on program documents and verification forms.

At the discretion of the HHA the HHA may accept electronic signatures on a document unless it is precluded by HUD.

The electronic signature can take the form of either a scan of the individual's handwritten signature, an electronically inserted image intended to substitute for a signature. This electronic signature shall have the same force and effect as if the individual had affixed her or his original signature to a paper copy of the document so signed.

If at any time, the HHA has reason to believe that the signature referenced above was not made by the individual whose signature is on the document, the HHA may request additional documentation to verify the information and or require original signatures.

The HHA may also temporarily accept an electronic signature and require an original signature be provided by a certain date when circumstances warrant. In the event that the party does not provide the original signature by the date required by the HHA, the Housing Authority may take appropriate action including termination of HAP Contract or Program Participation where applicable.

### **2. Original Documents**

Generally, the HHA requires original program documents and verification forms<sup>8</sup>.

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<sup>8</sup> See VIII, Verification, for the HUD requirements with regard to verification.

At the discretion of the HHA the HHA may accept a scanned document, an electronic copy, facsimile copy, photostatic copy or picture of a document sent through a cellular phone or similar device unless it is precluded by HUD.

If at any time, the HHA has reason to believe that documents have been altered or contain fraudulent information, the HHA may request additional documentation to verify the information and or require original documents.

The HHA may also temporarily accept a scanned document, an electronic copy, facsimile copy, photostatic copy or picture of a document sent through a cellular phone or similar device and require and original document be provided by a certain date when circumstances warrant. In the event that the party does not provide the original signature by the date required by the HHA, the Housing Authority may take appropriate action including termination of HAP Contract or Program Participation where applicable.

### **3. Copies**

As part of regular program administration, the Housing Authority provides important notices and documents to families. Further upon request the Housing Authority will provide one copy of a document within the tenant file free of charge. When additional copies of the same document are requested, they will be billed at a rate of 5 cents per page.

### **F. De Minimis Errors**

The HHA will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when the HHA's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking.

Once the HHA becomes aware of the existence of an income calculation error, the error(s) will be corrected retroactive to the effective date of the action resulting in an error regardless of the dollar amount associated with the error.

## **1. HHA Error**

### **a. Underpayment by the Family**

Families will not be required to repay HHA in instances where HHA miscalculated income resulting in a family being undercharged for rent. Once the HHA becomes aware of the error the family will be provided with a 30-day notice of the increase to their rent portion.

### **b. Overpayment by the Family**

The HHA will take corrective action to credit or repay a family if the family was overcharged tenant rent, including de minimis errors, in the income determination. A credit will be mailed to the family within 1 month of the HHA becoming aware of the error and will be retroactive to the date the determination should have taken place without the HHA error.

## **2. Family Caused Error**

### **a. Underpayment by the Family**

Families will be required to repay HHA in instances where family caused error resulted in family being undercharged for rent. The reduction will be effective the first of the month after the reexamination should have been completed and this will be made retroactive. The HHA will perform a retroactive adjustment calculation and offer a repayment agreement for the same. In certain cases such as fraud or misrepresentation the HHA may elect to terminate assistance.

### **b. Overpayment by the Family**

If the new rent is a reduction and the family caused the delay or did not report the change in a timely manner, the change will be effective the first of the month after the adjustment is made by the HHA. However, this may be waived by the HHA if the HHA determines that exceptional circumstances apply, such as the sickness or hospitalization of a family member, pandemic or state of emergency causing the delay in the provision of information. In such cases, the change may be made effective

retroactive to the first of the month after the interim reexamination would have been completed had the family provided the information in a timely manner.

In applying a retroactive change in rent or family share, the HHA will clearly communicate the effect of the retroactive adjustment to the family.

## **G. Lease and Housing Assistance Payments Contract Execution Timeframes**

### **1. Lease**

The following must be completed before the beginning of the initial term of the lease for a unit:

- i. The HHA has inspected the unit and has determined that the unit satisfies the HQS;
- ii. The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in 24 CFR § 35.92(b); and
- iii. The HHA has approved leasing of the unit in accordance with program requirements.

### **2. Housing Assistance Payments Contract**

#### **a. Advance Requirements**

The HHA will not execute a HAP contract until it has determined that:

1. The unit is eligible.
2. The unit has been inspected by the HHA and passes the HQS inspection;
3. The lease includes the tenancy addendum;
4. The rent to owner has been determined as reasonable; and
5. Where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40 percent of the family's monthly adjusted income.

### 3. Timeframe for HAP contract execution

The HHA will use best efforts to execute the HAP contract before the beginning of the lease term. The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The HHA will not pay any housing assistance payment to the owner until the HAP contract has been executed.

If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the HHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days)

Any HAP contract executed after the 60-day period is void, and the HHA may not pay any housing assistance payment to the owner, unless there are extenuating circumstances that prevent or prevented the HHA from meeting the 60-day deadline, then the HHA may submit to the HUD field office a request for an extension. The request must be submitted no later than two weeks after the 60-day deadline and must include an explanation of the extenuating circumstances and any supporting documentation. HUD at its sole discretion will determine if the extension request is approved.

**Exhibit A**  
**Administrative Plan Amendment**  
**Relating to the Hudson Housing Authority's**  
**Application Process and Use of a**  
**Centralized Housing Choice Voucher Waiting List**



## **VI. I. INTRODUCTION**

The Hudson Housing Authority has elected to utilize the Centralized Application and Waiting List process. The Department of Housing and Urban Development has encouraged the use of a Centralized Waiting List by Public Housing Authorities (PHAs). In the Commonwealth of Massachusetts, the PHA Centralized Waiting list is administered by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials (MassNAHRO) and its subcontractor GoSection8.

The Centralized Section 8 Housing Choice Voucher (HCV) Waiting List affords the Hudson Housing Authority and its clients the following benefits:

1. Ease of application process for applicants who may apply at the office of any Housing Authority participating in the Centralized Waiting List option or online at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL).
2. Elimination of the procedural hardship on families and administrative burden to the Housing Authority of closing and opening of the Section 8 HCV Waiting List. The Centralized Section 8 HCV Waiting List is maintained as an open waiting list.
3. Increase of housing opportunities for families who now have the option of placement at a number of locations throughout the Commonwealth through the submission of a single Preliminary Application.

## **VII. II. OPENING AND CLOSING OF THE WAITING LIST AND MARKETING**

The Centralized Waiting List was opened in January of 2013 and at that time notice of the opening of the Waiting List was published in a local newspaper of general circulation as well as within minority media.

The list has remained open since that date. As individual PHAs join the Centralized Waiting List the individual PHA gives notice by publication in a local newspaper of general circulation and by minority media and/or other suitable means.

Ongoing marketing of the Section 8 HCV Program to those least likely to apply is a combined effort between the participating PHAs, MassNAHRO and GoSection8. Specifically, publication of the initial participation in the Centralized Waiting List is the responsibility of the PHA. GoSection8 maintains an up to date website which includes the following information: a description of the Centralized Waiting List and how it operates; a list of participating PHAs; instructions as to how to apply; program eligibility information; the online Preliminary Application and printable paper Preliminary Application which are available in multiple languages; manner in which to perform a status check and modify a Preliminary Application as well as responses to frequently asked questions.

Further GoSection8 performs outreach and education to advocates and community service agencies by providing free training sessions as to the application process. In addition, GoSection8 provides informational postcards as to the application process and where to obtain additional information as well as toll-free live telephone support.

Individual PHAs and/or other parties as applicable may also perform marketing on an as needed basis with regard to their specific programs.

## **VIII. III. ACCEPTANCE OF APPLICATIONS**

A single, standardized Preliminary Application is available at each participating Housing Authority and online at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL). A master list of all participating PHAs is maintained at the office of MassNAHRO, at each participating Housing Authority and online at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL). Only one Preliminary Application is accepted for each Family<sup>9</sup>.

The Preliminary Application requests information as required to administer the Section 8 HCV Program such as: name and city or town (where Head of Household and spouse/partner live and work), telephone number, total number of family members, Head of Household's social security number, if client is 62 years of age or older or disabled, total

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<sup>9</sup> There is an exception when an application has been rejected by a participating PHA for a reason which may not make the family ineligible at another participating PHA. The family may then reapply to the PHA where the application was rejected to be placed on the Waiting List for that participating PHA according to a new date and time. The original application will remain in the system for all other PHAs where the family could potentially be eligible.

gross family income, race, and ethnicity. Information regarding preferences adopted by participating Housing Authorities is also elicited on this Preliminary Application. MassNAHRO reserves the right to modify the Preliminary Application to change or include other information required or useful to administer the Section 8 HCV Program.

Preliminary Applications are available for completion at the Hudson Housing Authority in person between the hours of 8:30 and 4:00 on the following days of the week Monday to Friday. Blank Preliminary Applications may be mailed or faxed to a family by a Participating PHA for completion by the family.

Upon completion of the Preliminary Application it shall be marked by the PHA staff with date and the time of submission, and the family shall be provided with a standard receipt evidencing submission of the Preliminary Application. The Hudson Housing Authority will then enter the information from the Preliminary Application into the Centralized Waiting List.

Preliminary Applications may also be submitted online anytime at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL) at which time an online receipt is generated.

Families are notified at time of application that PHA's may have open waiting lists for the public housing program, project-based voucher program or moderate rehabilitation program and often other State funded programs and if the other program includes units suitable for the applicant, the family should contact the PHA directly for placement its waiting list for the other program(s). Information as to availability of many of these program(s) is online on the website. Upon completion of a Preliminary Application, if there is another open waitlist for any other program administered by any participating PHA for which applicant may be eligible which is operated through Gosection8.com, the family will receive automatic notification on the website and by email and may elect to apply instantly online. In this instance there is no need to fill out an additional Preliminary Application.

#### **IX. IV. UPDATING THE APPLICATIONS**

A family may update its Preliminary Application (i.e. change of address) for Section 8 HCV Assistance online at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL) or at the office of any PHA participating in the Centralized Waiting List Application process regardless of where the

original Preliminary Application was submitted. To update the Preliminary Application through a PHA, a written request must be submitted to the PHA by the family.

In the event of a family break up into two otherwise eligible families, only one family will retain the original Preliminary Application. The second family may submit a new Preliminary Application for assistance which will have a new date and time.

In the absence of a judicial determination with regard to who should retain the original application, the family will generally determine who retains the original Preliminary Application. The PHA will allow the Head of Household to report who remains on the original Preliminary Application to reflect this family decision. However, if MassNAHRO or the PHA is informed that the matter is in dispute they shall make the decision as to who will retain the original Preliminary Application taking into consideration the following factors: (1) The interest of minor children including custody arrangements. (2) The interest of ill, elderly, or disabled family members. (3) The interest of a victim of an occurrence of domestic violence, dating violence, sexual assault, or stalking <sup>10</sup>. (4) The relevant recommendations of social service professionals involved with the family. (5) The Head of Household who is listed on the original application.

## **X. V. SELECTION FROM THE WAITING LIST**

Except for special admissions (See 24 CFR 982.203 (2018)), HCV participants will be selected from the Waiting List. The selection criteria set forth in the Hudson Housing Authority's Administrative Plan shall govern the manner in which individuals and families are selected by the Hudson Housing Authority from the Centralized Section 8 HCV Waiting List. Further, when HUD awards a Housing Authority program funding for a specified category of families on the Waiting List (See 24 CFR 982.204 (e) (2018)), the PHA must select applicant families in the specified category. This is further described in the PHA's Administrative Plan, HUD award and/or Notice of Funding Availability for said funding.

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<sup>10</sup> To the extent that the provisions set forth in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking apply the PHA will adhere to such requirements.

PHA policies which dictate the order of selection are described within the PHA's Housing Choice Voucher Administrative Plan at Part II. C.

Pursuant to 24 CFR 982.201(b)(2) (2018), not less than 75 percent of the families admitted to a PHA's HCV program (tenant based and project based where applicable) during the PHA fiscal year from the PHA waiting list shall be extremely low-income families. The PHA may skip a family with an income above the extremely low-income limit on the waiting list in order to select an extremely low-income family to meet this requirement.

## **XI. VI. DETERMINATION OF ELIGIBILITY**

Once a family has been selected from the Centralized Section 8 HCV Waiting List in the manner set forth in the Hudson Housing Authority's Administrative Plan from the Section 8 HCV Program, eligibility determination shall be made according to federal law, regulations governing State law and any applicable procedures set forth in the Hudson Housing Authority's Administrative Plan for the Section 8 HCV Program.

## **XII. VII. DETERMINATION OF INELIGIBILITY**

If a family is denied assistance by the Hudson Housing Authority, they will have the right to the appeal procedures set forth in the Hudson Housing Authority's Administrative Plan and federal regulations.

The removal shall not occur until the appeal procedure<sup>11</sup> when requested or time period for the family to request this appeal has expired. Appeal rights and procedures are governed by the applicable code of federal regulations and the contents of the Administrative Plan for the Housing Authority making the denial. Further to the extent that a denial is based upon CORI or Immigration Status information, regulations and PHA Plan procedures governing denials on such basis including any appeal rights related thereto shall apply.

### **4. A. Ineligibility for Assistance Based upon PHA Policy - Removal from the Centralized Waiting List for a Particular PHA Only**

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<sup>11</sup> Informal Review or Informal Hearing as applicable

If the family could be eligible under another participating PHA's policies, the family's name will not be removed by the Hudson Housing Authority from the Centralized Section 8 HCV Waiting List. However, the family will not again be selected by the Hudson Housing Authority unless a new Preliminary Application has been submitted to the Hudson Housing Authority.

Certain items which are considered mandatory denial categories still result within a removal from the particular PHA only because there is some component of PHA Policy associated with such denial (i.e. the family does not qualify on the basis of citizenship or the eligible immigrant status of family members as required in 24 CFR Part 5 Subpart E, Restrictions on Assistance to Noncitizens insofar as PHAs may *elect* to require documentation to verify Citizenship or when the family does not meet the Social Security Number disclosure and documentation requirements as set forth in in 24 CFR 5.216 insofar as for pending disclosure and documentation of social security numbers, the HA may allow the family to retain its place on the Waiting List for differing times based upon PHA policy.)

**5. B. Mandatory Ineligibility for Assistance - Removal from Centralized Waiting List for All PHAs**

If the family is removed from the Waiting List because it is deemed ineligible for reason which is mandatory the name shall be removed from the Waiting List for all PHAs. Mandatory grounds for all PHAs are as follows:

1. The family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].
2. Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing as set forth in 24 CFR 982.553 (a) (1) (ii) (C) (i).
3. Any household member is subject to a lifetime registration requirement under a state sex offender registration program as set forth in 982.553 (a) (2) (i).

**6. C. Mandatory Ineligibility for Assistance due to Income Limits - Removal from Centralized Waiting List Dependent on Location for Income Limit Determination**

When the family income limit exceeds that required for participation in the HCV program pursuant to 24 CFR 982.201 they shall be denied participation in the HCV program. If the family is denied participation in the HCV Program because it is over the applicable income limits for the program, the family's name will be removed from the Centralized Section 8 HCV Waiting List for the Housing Authority making the determination and all other PHA's in the area with income limits at or below the level of the PHA making the determination. The family's name shall remain on the list for other participating PHAs in areas with income limits above that of the PHA making the denial. If the family later reapplies it shall be provided with a new (later) Preliminary Application date for the PHAs from which the family's name was previously removed due to the over income denial.

PHA's which have adopted specific policies to admit a low-income family that meets additional eligibility criteria specified in the PHA Administrative Plan which could impact their particular PHA income limits will notify GoSection8 to make certain a different level should not be on file for the particular PHA in relation to denials under this section.

**XIII. VIII. NO RESPONSE TO PHA- REMOVAL FROM CENTRALIZED WAITING LIST FOR A PARTICULAR PHA ONLY**

If the family does not respond to a letter sent by a participating Housing Authority to attend an eligibility determination appointment or to otherwise respond to the Housing Authority, the Housing Authority who requested said response may remove the family's name from the Centralized Section 8 HCV Waiting List for their particular PHA only. The manner for said removal and any applicable appeal procedure shall be governed by the Administrative Plan for the Housing Authority making said removal.

The family's name will not be removed by the Hudson Housing Authority from the entire Centralized Section 8 HCV Waiting List. However, the family will not again be selected by

the Hudson Housing Authority unless a new Preliminary Application has been submitted to the Hudson Housing Authority.

#### **XIV. IX. WAITING LIST UPDATES; PURGING OF WAITING LIST**

While the family is on the waiting list, within 10 business days of the occurrence of a change, the family must inform the PHA of changes in contact information (including current residence, mailing address and phone number) household composition, preferences and total household income. The changes must be submitted in writing to a participating PHA or on line via the GoSection 8 application portal within 10 business days of said change.

In order to make certain the Waiting List remains up to date GoSection8 will send e mail reminders for families to keep their mailing addresses up to date. Families may also elect to receive optional text reminders.

MassNAHRO will, on a biennial basis, send a letter to each applicant on the Centralized Section 8 HCV Waiting List. This letter will be sent to the address on the Section 8 HCV Preliminary Application or on any written change of status request that was completed and sent to a participating Housing Authority. Applicants will be requested to respond to the mailing, either online at [www.gosection8.com/MassCWL](http://www.gosection8.com/MassCWL) or by mailing back the response card, within a time parameter set forth in the letter and the letter shall indicate that failure to respond will result in the removal of his/her name from the Centralized Section 8 HCV Waiting List. In the event that the applicant does not respond within the applicable time parameter, his/her name shall be removed from the Centralized Section 8 HCV Waiting List.

Applicants removed by MassNAHRO due to no response to the update mailing may appeal to MassNAHRO during the posted reinstatement period. After the reinstatement period MassNAHRO will consider appeals which are requested as a reasonable accommodation for a person with a disability.

#### **XV. X. JURISDICTION REGARDING CERTAIN DECISIONS**

When a family expresses a problem with a decision made by a Housing Authority involved in the Centralized Section 8 HCV Waiting List, that family shall be referred to the Housing Authority who made the determination in question. This includes when a family is removed from the Centralized Waiting List for failure to reply to the PHA.



When a family expresses a problem with a decision made by MassNAHRO, that family shall be instructed to send a written request for reinstatement along with supporting documentation to MassNAHRO's Centralized Waiting List Administrator at: Massachusetts Centralized Waiting List, PO Box 308, Dedham, MA 02027.

## **XVI. XI. NONDISCRIMINATION AND PROGRAM ACCESSABILITY**

Preliminary Applications will be accepted without regard to race, color, sex, religion, familial status, age, disability, national origin, marital status, gender identity, sexual orientation, receipt of public assistance or housing subsidies, ancestry, military or veteran status, or genetic information.

PHA's will provide reasonable accommodations as required under the law to assist individuals with disabilities. Upon request, this may include provision of appropriate auxiliary aids and services necessary to ensure effective communication *e.g.*, Braille, audio, large type, assistive listening devices, and sign language interpreters. Reasonable accommodations may also include a change in policy or procedure to make the program accessible. Such requests will be considered and made as required according to applicable law. Applicants are advised of their right to request a reasonable accommodation both on the website and the hard copy of the Preliminary Application.

Persons with hearing and/or speech impairments may access the GoSection8 telephone number via text telephone (TTY) using [Massachusetts Relay](#) at 711 for English and [\(866\) 930-9252](#) for Spanish.

PHAs, MassNAHRO and GoSection8 will take reasonable steps to ensure meaningful access by persons with limited English proficiency (LEP). Such steps will include translation of common written materials into those languages frequently spoken by Applicants. Further on an as needed basis GoSection8 or the participating PHA (depending upon the point of contact) may arrange for telephonic or in person interpretation. The on line Preliminary Applications queries the "preferred language" and once selected the computerized Preliminary Applications process is in that language. There are multiple languages on the site which are those most commonly encountered in Massachusetts with regard to LEP individuals. GoSection8 has bilingual staff that speak English, Spanish, French and Haitian Creole. Further, telephonic interpretation is available in any other needed languages.

**XVII. XII. CONFLICT AND GRANT OF AUTHORITY**

To the extent that the contents of this Amendment conflicts with the PHA's Section 8 HCV Administrative Plan with regard to Waiting list administration, this Amendment shall prevail. The PHA Executive Director, MassNAHRO and GoSection8 are authorized by the Board of Commissioners to modify and implement procedures to meet the requirements of this Amendment. The PHA Executive Director, MassNAHRO and GoSection8 are authorized by the Board of Commissioners to institute other changes as long as such changes are consistent with the authorizations granted herein.

**XVIII. XIII. HEADINGS**

The headings in this Amendment are for reference. The body of the document should be used for interpretation of the document.

**XIX. XIV. EFFECTIVE DATE**

This amendment became effective July 1, 2019.

Adopted by the Board of Commissioners this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

## **Exhibit B**

### **Updated List of Federally Mandated Exclusions From Income**

**Issued by HUD January 31, 2024**

The exclusions listed below apply to income only, except where HUD states that the exclusion also applies to assets. Actual income earned from an excluded asset may be included in income if it is not deposited into an account that is disregarded and excluded under one of the below authorities. If an amount is in an excluded account, like an Independent Development Account or an ABLE account, then the statute or the regulations associated with that income/asset exclusion will dictate what portion of the income earned off the amount, if any, is to be included in the family's income. Please note that exclusions (13) and (23) have provisions that apply only to specific HUD programs):

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

(2) Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 42 U.S.C. 5058), are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). This exclusion also applies to assets;

(3) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)). This exclusion also applies to assets;

(4) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506). This exclusion also applies to assets;

(5) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)). This exclusion also applies to assets;

(6) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6). This exclusion also applies to assets;

(7) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by

individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408). This exclusion also applies to assets;

(8) Amounts of student financial assistance funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended)

(9) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);

(10) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Product Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets;

(11) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420 section 9(c)). This exclusion also applies to assets;

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

(13) Earned income tax credit (EITC) refund payments <sup>[1]</sup> received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l)). This exclusion also applies to assets;

(14) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);

(15) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95-433 section 2). This exclusion also applies to assets;

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

(17) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821-22) is excluded from income and assets (38 U.S.C. 1833(c)).

(18) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)). This exclusion also applies to assets;

(19) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2));

(20) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This exclusion also applies to assets;

(21) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101-503 section 8(b)). This exclusion also applies to assets;

(22) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. 1437a(b)(4));

(23) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.);

(24) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of

receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291 section 101(f)(2)). This exclusion also applies to assets;

(25) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4));

(26) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407);

(27) Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)). This exclusion also applies to assets;

(28) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113-295), as described in Notice PIH 2019-09/H 2019-06 or subsequent or superseding notice is excluded from income and assets; and

(29) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116-260, section 501(j)), and the American Rescue Plan Act of 2021 (Pub. L. 117-2, section 3201). This exclusion also applies to assets.

## **Glossary**

**1937 Act** means the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**ADA** means the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

**Affiliated individual**, for purposes of VAWA, with respect to an individual means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Annual contributions contract (ACC)** means the written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Applicant** means a person or a family that has applied for housing assistance.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Broadband infrastructure** means cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure, including wireless infrastructure, that is capable of providing access to Internet connections in individual housing units, and that meets the definition of “advanced telecommunications capability” determined by the Federal Communications Commission under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302).

**Child** means a member of the family other than the family head or spouse who is under 18 years of age.

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

**Citizen** means a citizen or national of the United States.

**Covered housing program for purposes of VAWA consists of the following HUD programs:**

- (1) Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
- (2) Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
- (3) Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.
- (4) HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
- (5) Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability Assistance program (with regulations forthcoming).
- (6) Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
- (7) Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
- (8) HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR



chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).

(9) The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

**Covered housing provider** refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. The program-specific regulations for the covered housing programs identify the individual or entity that carries out the duties and responsibilities of the covered housing provider as set forth in part 5, subpart L. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.

**Covered person**, for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

**Covered families, for purposes of 24 CFR part 5.615** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Day laborer.** An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income earned as a day laborer is

not considered nonrecurring income under 24 CFR § 5.609(b)(24) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (i.e. such as earnings of full-time students in excess of the dependent deduction).

**Department** means the Department of Housing and Urban Development.

**Dependent** is a member of the family (which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family** means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

**Displaced family** means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Drug** means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**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.

**Earned income.** Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

**Economic self-sufficiency program.** Any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 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 Person** means an individual who is at least 62 years of age.

**Eligible families.** Low-income families who are eligible for admission to the public housing program.

**Evidence of citizenship or eligible status** means the documents which must be submitted to evidence citizenship or eligible immigration status. (See § 5.508(b).)

**Extremely low-income family.** A very low-income family whose annual income does not exceed the higher of:

- (1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or
- (2) Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD

finds that such variations are necessary because of unusually high or low family incomes.

**Fair Housing Act** means 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 (FMR)** means the rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. This Fair Market Rent includes utilities (except telephone). Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the Federal Register in accordance with part 888 of this title.

**Family.** Includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

A single person, who may be:

An elderly person, displaced person, disabled person, near-elderly person, or any other single person;

An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

A group of persons residing together, and such group includes, but is not limited to:

- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family;
- A near-elderly family;
- A disabled family;
- A displaced family; and
- The remaining member of a tenant family.

To the extent that the HHA has any additional legal nondiscriminatory criteria in the existing administrative plan (i.e. stable relationship test) that is not impacted by this amendment that additional criteria shall also still apply when relevant and is not superseded by this definition.

**Federally assisted housing (for purposes of subparts I and J of this part)** means housing assisted under any of the following programs:

- (1) Public housing;
- (2) Housing receiving project-based or tenant-based assistance under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f);
- (3) Housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act (12 U.S.C. 1701q);
- (4) Housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act;
- (5) Housing that is assisted under section 811 of the National Affordable Housing Act (42 U.S.C. 8013);
- (6) Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715l(d)(3)) that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act (12 U.S.C. 1715l(d)(5));
- (7) Housing insured, assisted, or held by HUD or by a State or local agency under section 236 of the National Housing Act (12 U.S.C. 1715z-1); or
- (8) Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949 (42 U.S.C. 1483, 1484).

**Foster adult** is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. The HHA will generally request a court order from a court of component jurisdiction in the Commonwealth setting forth Guardianship of the person. This definition includes young adults age 19-22 pursuant to M.G.L. ch. 119, § 21 who are under the custody, care, or responsibility of the department of Children and Families including, but not limited to, those who meet the eligibility criteria set forth in M.G.L. ch. 119, § 23(f).

**Foster child** is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. In Massachusetts this is generally children under the care of the Department of Children and Families pursuant to M.G.L. ch. 119. The HHA will generally request a court order from a court of component jurisdiction in the

Commonwealth or placement letter issued by the Massachusetts Department of Children and Families for verification.

**Full-time student.** A person who is attending school or vocational training on a full-time basis.

**General Counsel** means the General Counsel of HUD.

**Grantee** means the person or legal entity to which a grant is awarded and that is accountable for the use of the funds provided.

**Guest, only for purposes of 24 CFR part 5, subparts A and I, and parts 882, 960, 966, and 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 parts 966 and 982 apply to a guest as so defined.

**Head of household** means the adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Health and medical care expenses** are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed and may only be deducted for elderly or disabled families.

The HHA will review each expense to determine whether it is eligible in accordance with this definition. The HHA does not specifically align with IRS Publication 502 but will use it as a standard for determining allowable expenses provided that they conform with the above definition of allowable expenses. (Examples of allowable expenses are set forth in Chart 2).

**Homeownership counseling** means housing counseling related to homeownership and residential mortgage loans when provided in connection with HUD's Housing Counseling Program, or required by or provided in connection with HUD Programs as defined in § 5.111. Homeownership counseling is housing counseling that covers the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including financing, refinancing, default, and foreclosure, and other financial decisions) and the sale or other disposition of a home.

**Household, for purposes of 24 CFR part 5, subpart I, and parts 960, 966, 882, and 982 of this title,** means the family, foster children and adults, and PHA-approved live-in aide.

**HUD** means the same as Department.

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

**Independent contractor** is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. "Gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

**INS** means the U.S. Immigration and Naturalization Service. This agency is now known as the Department of Homeland Security.

**Live-in aide** means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary supportive services.

**Low-income family.** A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.

**Minor** is a member of the family, other than the head of family or spouse, who is under 18 years of age.

**Mixed family** means a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**MSA** means a metropolitan statistical area.

**NAHA** means the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.).

**National** means a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

**NEPA** means the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

**Net family assets (after effective date)**

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are:

(i) The value of necessary items of personal property;

(ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD



in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);

(iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;

(iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;

(v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;

(vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government.

(vii) Interests in Indian trust land;

(viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982;

(ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982;

(x) Family Self-Sufficiency Accounts; and

(xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

**NOFA** means Notice of Funding Availability.

**Noncitizen** means a person who is neither a citizen nor national of the United States.

**Non-public housing over-income family.** A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent. See subpart E of this part.

**OMB** means the Office of Management and Budget.

**Organizational Unit** means the jurisdictional area of each Assistant Secretary, and each office head or field administrator reporting directly to the Secretary.

**Other person under the tenant's control, for the purposes of the definition of covered person and for parts 5, 882, 966, and 982** means that the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) 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.

**Owner** has the meaning provided in the relevant program regulations. As used in this subpart, where appropriate, the term “owner” shall also include a “borrower” as defined in 24 CFR part 891.

**Person with disabilities, for purposes of deductions and program eligibility where applicable**

(1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means “individual with handicaps”, as defined in § 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

**Premises, for purposes of 24 CFR part 5, subpart I, and parts 960 and 966**, means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**Project owner** means the person or entity that owns the housing project containing the assisted dwelling unit.

**Public housing** means housing assisted under the 1937 Act, other than under Section 8. “Public housing” includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating assistance.

**Public Housing Agency (PHA)** means any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Public Housing covered programs** means the public housing programs administered by the Assistant Secretary for Public and Indian Housing under title I of the 1937 Act. This definition does not encompass HUD's Indian Housing programs administered under title II of the 1937 Act. Further, this term does not include those programs providing assistance under section 8 of the 1937 Act. (See definition of “Section 8 Covered Programs” in this section.)

**Real property** as used in this part has the same meaning as that provided under the law of the State in which the property is located. In Massachusetts, Real property for the purpose of taxation includes all land and all buildings and other things thereon or affixed thereto. See MGL Chapter 59 Section 2A.

**Rental housing counseling** means counseling related to the rental of residential property, which may include counseling regarding future homeownership opportunities when provided in connection with HUD's Housing Counseling Program, or required under or provided in connection with HUD Programs as defined in § 5.111. Rental housing

counseling may also include the decision to rent, responsibilities of tenancy, affordability of renting and eviction prevention.

**Residency preference.** A preference for admission of persons who reside or work in a specified geographic area.

**Responsible entity.** For purposes of HUD's restriction on assistance to noncitizens regulations, means the person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status. The entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status under the various covered programs. For the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

**Seasonal worker** is an individual who is (1) hired into a short-term position (i.e., for which the customary employment period for the position is 6 months or fewer) and (2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b).

**Secretary** means the Secretary of Housing and Urban Development.

**Section 214** means section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

**Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in § 5.500.

**Section 8** means section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

**Section 8 covered programs** for purposes of 24 CFR 4.504 means all HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8-assisted housing for which loans are made under section 202 of the Housing Act of 1959.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Sexual orientation** means one's emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality, heterosexuality, or bisexuality).

**Specified welfare benefit reduction.**

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

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

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

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

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

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others; or

(2) Suffer substantial emotional distress.

**Substantial rehabilitation**, for the purposes of determining when installation of broadband infrastructure is required as part of substantial rehabilitation of multifamily rental housing, unless otherwise defined by a program means work that involves:

(1) Significant work on the electrical system of the multifamily rental housing. “Significant work” means complete replacement of the electrical system or other work for which the pre-construction cost estimate is equal to or greater than 75 percent of the cost of replacing the entire electrical system. In the case of multifamily rental housing with multiple buildings with more than 4 units, “entire system” refers to the electrical system of the building undergoing rehabilitation; or

(2) Rehabilitation of the multifamily rental housing in which the pre-construction estimated cost of the rehabilitation is equal to or greater than 75 percent of the total

estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than 4 units, the replacement cost must be the replacement cost of the building undergoing rehabilitation.

**Tenant** means an individual or a family renting or occupying an assisted dwelling unit. For purposes of 24 CFR § 5.504 subpart E, the term tenant will also be used to include a homebuyer, where appropriate.

**Tenant Rent.** The amount payable monthly by the family as rent to the unit owner (HCV owner or PHA in public housing). (This term is not used in the HCV program.)

**Unearned income.** Any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

**URA** means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4201-4655).

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant 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 the monthly cost 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 healthful living environment.

**Utility reimbursement.** The amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. (This definition is not used in the Section 8 voucher program, or for a public housing family that is paying a flat rent.)

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Very low-income family.** A family whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**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.

**Welfare assistance** Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, State or local governments (including assistance provided under the Temporary Assistance for Needy Families (TANF) program, as that term is defined under the implementing regulations issued by the Department of Health and Human Services at 45 CFR 260.31).

**Work activities.** See definition at section 407(d) of the Social Security Act (42 U.S.C. 607(d)).

Note: This glossary has been prepared to assist the reader. For full definitions they may be required to review the program regulations associated with the specific rule in question. Certain definitions are specific to a section of rules or regulations and applicable in that context. Updated definitions can be located in the code of federal regulations.