



Housing Choice Voucher Section 8 Program Administrative Plan

December, 2012 - November, 2013

APPROVED BY THE CITY OF MIDDLETOWN

BOARD OF COMMISSIONERS

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CHAPTER 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Housing Choice Voucher Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher Program Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Housing Choice Voucher Program tenant-based assistance programs are federally funded and administered in the City of Middletown by the Middletown Public Housing Agency through its Housing Choice Voucher Program office.

Administration of the Housing Choice Voucher Program and the functions and responsibilities of the Housing Agency (MPHA) staff shall be in compliance with MPHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Program Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of MPHA is the City of Middletown, OH.

A. HOUSING AGENCY MISSION STATEMENT

MPHA will provide a quality, affordable living environment that recognizes our diverse socioeconomic population through responsible collaboration with the greater Middletown community.

B. LOCAL GOALS [24 CFR 982.1]

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MPHA Goal: Improve the quality of assisted housing.

Objectives:

- Maintain efficient voucher management: Obtain High-Performer SEMAP rating.
- Aggressively remove non-compliant property owners and tenants from the program.
- Increase customer satisfaction.
- Concentrate on efforts to improve specific management functions.
- Provide training programs for participating owners.

MPHA Goal: Increase assisted housing choices.

Objectives:

- Conduct outreach efforts to enhance program image.
- Increase and enhance the voucher homeownership program.
- Revise voucher payment standards to more accurately reflect the market.
- Use mobility efforts to expand Housing Opportunity to low poverty and low minority concentrations in all locations.
-

HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals.

MPHA Goal: Promote self-sufficiency and asset development of assisted households.

Objectives:

- Increase the number and percentage of employed persons in assisted families.
- Identify supportive services and link services with FSS and other participants to improve assisted recipients' employability.
- Provide or attract supportive services to increase independence for the elderly or families with disabilities.

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HUD Strategic Goal: Ensure equal opportunity in housing for all Americans.

MPHA Goal: Ensure equal opportunity and affirmatively further fair housing.

Objectives:

- Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion, national origin, sex, familial status, and disability.
- Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion, national origin, sex, familial status, and disability.
- Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required.

MPHA also has the following goals for the program:

To work with local neighborhood groups and community councils to ensure the program maintains property standards consistent with neighborhood standards including the responsibility to be good neighbors in their communities.

To encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service's needs.

To create positive public awareness and expand the level of family, owner, and community support in accomplishing MPHA's mission.

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

To utilize all available methods to ensure accurate tenant and subsidy payments.

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

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

To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.

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

Chapter 1

To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.

To promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

To maximize the SEMAP Deconcentration Bonus by assisting participants to find decent, safe and sanitary housing in low poverty neighborhoods.

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan. MPHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. MPHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be approved by the Board of Commissioners of the Agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

This Administrative Plan is a supporting document to the MPHA Agency Plan, and is available for public review as required by CFR 24 Part 903.

Applicable regulations include:

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

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

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall not be expended without the prior approval of the MPHA Board of Commissioners.

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E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define MPHA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Housing Choice Voucher Program not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

F. TERMINOLOGY

1. The Middletown Public Housing Agency is referred to as "MPHA," "PHA," or "Housing Agency" throughout this document.
2. "Tenant" is used to refer to participants in terms of their relation to owners.
3. "Landlord" and "owner" are used interchangeably.
4. "Noncitizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.
5. The Housing Choice Voucher Programs are also known as the Housing Choice Voucher Program, the Moderate Rehabilitation Program, and other special housing types as detailed in Chapter 20.
6. "HQS" means the Housing Quality Standards required by regulations as enhanced by MPHA.
7. "Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.
8. "Merger date" refers to October 1, 1999, which is the effective date of the merging of the Housing Choice Voucher Program Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

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

It is the policy of the Middletown Public Housing Agency to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

MPHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Housing Choice Voucher Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability or sexual orientation.

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To further its commitment to full compliance with applicable Civil Rights laws, MPHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the HCV reception desk. MPHA will make available the toll free number for the Housing Discrimination Hotline 1-800-669-9777 and the Federal Information Relay Service at 1-800-887-8339 to facilitate filing fair housing complaints.

MPHA will work with local jurisdictions to identify and address any impediments to fair housing choices within its programs. MPHA will work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require MPHA's involvement.

MPHA's staff is kept informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Agency offices, including in the lobby and interview rooms and the equal opportunity logo is used on all outreach materials. Staff attends local fair housing update training sponsored by HUD and other local organizations to keep current with new developments.

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

The MPHA offices are accessible to persons with disabilities.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

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

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of their disability before MPHA will treat a person differently than anyone else. MPHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on MPHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family

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initiates contact with MPHA, when MPHA initiates contact with a family including when a family applies, and when MPHA schedules or reschedules appointments of any kind.

To be eligible for a reasonable accommodation:

First, the requester must certify or verify that they are a person with a disability under the following ADA definition:

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

A record of such impairment; or

Being regarded as having such impairment.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, MPHA will require that a professional third party competent to make the assessment and provide written verification that the person needs the specific accommodation due to their disability and that the change is required for them to have equal access to the housing program.

If MPHA finds that the requested accommodation creates an undue administrative or financial burden, MPHA will deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of MPHA (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on MPHA.

Lastly, MPHA will provide a written decision to the person requesting the accommodation within 30 calendar days following receipt of written third-party verification. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review MPHA's decision.

Reasonable accommodation will be made for persons with a disability that require an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

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

Verification of Disability

MPHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and the Americans with Disabilities Act.

Outreach

Outreach efforts will include notification of all media and agencies listed in MPHA's Administrative Plan regarding public notices (see section on opening and closing the waiting list in "Applying for Admission" chapter).

Applying for Admission

All persons who wish to apply for any of MPHA's programs must submit a pre-application, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability. Applicants will then be pulled from the waiting list, subjected to third-party verification of all relevant information, and invited to a briefing. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time.

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

The full application must be completed prior to the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. At this interview, applicants will be interviewed by MPHA staff to review the information on the full application form. The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

I. TRANSLATION OF FOREIGN LANGUAGES

Oral Translation

The Housing Agency, with advance notice, will make arrangements to assist non-English speaking families. Requests for other language translations will be accommodated with sufficient advance notice.

Translation of Documents

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

1. The number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
2. The estimated cost to MPHA per client of translation of English written

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documents into the other language.

3. The availability of local organizations to provide translation services to non-English speaking families.
4. The availability of bilingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

MPHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that MPHA is using its resources in a manner that reflects its commitment to quality and service. MPHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators.

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Reexaminations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections
13. Lease-Up
14. Family Self-Sufficiency Enrollment and Escrow Account Balances
15. Bonus Indicator De-concentration

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

- Selection from the waiting list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

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

The minimum sample size to be reviewed will relate directly to each factor.

K. RECORDS FOR MONITORING MPHA PERFORMANCE

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

In addition to the required SEMAP documentation, supervisory staff will perform on-going quality control audits of the following functions:

- Reexaminations
- New Admissions
- HQS Inspections

L. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

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

MPHA's policy regarding release of information is in accordance with Federal, State and local laws which may restrict the release of family information.

MPHA's practices and procedures are designed to safeguard the privacy of applicants and program participants and to comply with applicable HUD regulations. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

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M. FAMILY OUTREACH

MPHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families. When MPHA's waiting list is open, MPHA will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, local media, and by other suitable means.

To reach persons who cannot read the newspapers, MPHA will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel.

MPHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines to assist them in making referrals for housing assistance.

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

MPHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

MPHA encourages owners of decent, safe and sanitary housing units to lease to Housing Choice Voucher Program families.

MPHA encourages participation by owners of suitable units located outside areas of high poverty or minority concentration.

MPHA conducts general meetings with participating owners to improve owner relations, increase program knowledge and recruit new owners.

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

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

MPHA will participate in community-based organization(s) comprised of private property and apartment owners and managers.

MPHA will actively recruit property owners with property located outside areas of minority and poverty concentration and apply for exception payment standards if MPHA determines it is necessary to make the program more accessible in MPHA's jurisdiction.

MPHA encourages program participation by owners of units located outside areas of poverty or minority concentration. MPHA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner

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outreach should be targeted. The purpose of these activities is to provide more choice and better housing opportunities to families.

Voucher holders are informed of a broad range of areas where they may lease units. MPHA will also guide families to work with Housing Opportunities Made Equal (HOME) to assist families who desire to live outside areas of poverty or minority concentration.

MPHA may work with an outside entity to counsel families on their prospective move and services available in the areas in which the family is interested, with the goal of increasing the number of voucher holders moving into low-poverty neighborhoods.

MPHA may periodically:

- Request the HUD Field Office to furnish a list of HUD-held properties available for rent.

- Develop working relationships with owners' associations in the City of Middletown and Real Estate Investors Association.

- Establish contact with civic, charitable and neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

- Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, owners, and other groups that have dealings with low-income families or are interested in housing such families.

CHAPTER 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

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

A. ELIGIBILITY FACTORS [982.201(b)]

MPHA accepts applications only from families whose head or spouse/co-head is at least 18 years of age or a person who has been designated as an emancipated minor through court order.

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

The HUD eligibility criteria are:

- An applicant must be a "family."
- An applicant must be within the appropriate Income limits.
- An applicant must furnish Social Security Numbers for all family members.
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.
 - At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before MPHA may provide any financial assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admissions criteria.

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

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Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher.

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

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

A "family" includes a family with or without a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more Live-In Aides is a family. MPHA determines if any other group of persons qualifies as a "family".

A single person family may be:

An elderly person.

A person with a disability.

- Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

Any other single person.

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

A family also includes:

Two or more persons who intend to share residency and whose income and resources are available to meet the family's needs.

Two or more persons who intend to share residency and whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.

Two or more elderly or disabled persons living together, or one or more elderly, near-elderly or disabled persons living with one or more Live-In Aides are a family.

Head of Household

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

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Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Noncitizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

The Co-Head of the household is an individual in the household who is equally responsible for the lease as the Head of Household. A family may have a Spouse or Co-Head, but not both. A co-head never qualifies as a dependent.

Live-in Attendants

A Family may include a Live-In Aide provided that such Live-In Aide:

- Is determined by MPHA to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities,

- Is not obligated for the support of the person(s), and

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

Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live-in aide.

A Live-In Aide is treated differently than family members, including:

- Income of the Live-In Aide will not be counted for purposes of determining eligibility or level of benefits.

- Live-in aides are not subject to Noncitizen Rule requirements.

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

Relatives are not automatically excluded from being Live-In Aides, but they must meet all of the elements in the Live-In Aide definition described above.

A Live-in Aide must be identified by the family and may only reside in the unit with the approval of MPHA. Written verification will be required from a health care provider. The verification provider must certify that a Live-In Aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

MPHA will approve a Live-In Aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a Live-In Aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan. The continued need for a Live-In Aide must be verified at the time of recertification.

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MPHA Live-In-Aide Policy

Head of household must submit a written request (form provided by MPHA) to add a Live-In-Aide.

Head of household and the proposed Live-In-Aide must sign an agreement to abide by MPHA policy and to consent to a background screening.

Health care provider must complete certification to confirm the medical need for a Live-In-Aide.

Live-In-Aide must provide birth certificate, SSN, and photo ID

The Live-In-Aide is not considered a family member and will have no rights to the Housing Choice Voucher. They cannot be considered a remaining family member of a participant family even if they are related to the participant.

The continued need for a Live-In-Aide must be verified at each annual recertification.

Verification must include the hours the care will be provided.

[24 CFR 982.316] At any time, MPHA will refuse to approve a particular person as a Live-In Aide or may withdraw such approval if:

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity, violent criminal activity, sexual offense or any criminal activity deemed unsuitable; or
- The person currently owes rent or other amounts to MPHA or another assisted housing provider under the 1937 Act.

Split Households Prior to Voucher Issuance

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

- Which family member applied as head of household.
- Which family unit retains the children or any disabled or elderly members.
- Restrictions that were in place at the time the family applied.
- Role of domestic violence in the split.
- Recommendations of social service agencies or qualified professionals such as children's protective services.

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

Multiple Families in the Same Household

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

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

There will be a self-certification such as notarized statements or court documentation required of families who claim joint custody or temporary guardianship.

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

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

To be eligible for assistance, an applicant's Annual Income at the time of admission must not exceed 50% of median area incomes except as provided for as follows:

Tenants living in project based housing who receive a voucher when the owner opts out of his/her contract with HUD;

Other exceptions that is consistent with HUD regulations.

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

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

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

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

Applicants

MPHA will deny eligibility to an applicant if any member of the family that is required to disclose their Social Security Number does not disclose it or provide documentation of such Social Security Number. However, if the family is otherwise eligible to participate in the program, the family may maintain their position on the waiting list for a period of 90 days in order to provide the missing Social Security Number for each member of

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the household. If there are issues beyond the family's control that prevent the Social Security Number from being obtained, MPHA may grant the family a one-time 90-day extension to comply with the Social Security Number documentation requirement.

Once the Social Security Number is obtained, the family will be placed back on the wait list based on the date and time of their original application.

At the expiration of the provided time period, if any required family member has failed to comply with the Social Security Number disclosure and documentation requirements, MPHA will withdraw the family for failure to provide documentation.

Participants

Individuals exempt from disclosure and verification procedures are

Individuals who do not contend to have eligible immigration status

Tenants age 62+ as of 1/31/10

Tenants who have previously disclosed a valid SSN.

For participant households adding a new household member under the age of six with no assigned SSN, the new household member will be included as a household member, if entitled to benefits, under a PIC generated alternate ID number. These families will be provided 90 days to provide documentation of SSN. MPHA may extend an additional 90 days if unforeseen circumstances outside of the family's control will prevent timely disclosure of required documentation.

For participant households adding a new household member at least six years of age, or under the age of six with an assigned SSN, the family must disclose the SSN and provide documentation of the SSN to MPHA at the time of requesting the addition of the new household member. The new household member cannot be added to the family composition until the family has complied with SSN disclosure and verification requirements.

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

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

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families: A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

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

Noncitizen students: Defined by HUD in the noncitizen regulations at 24 CFR 5.522 are not eligible for assistance.

Appeals: For this eligibility requirement only, the applicant is entitled to an informal review.

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

A family will not be admitted to the program if any member of the family has been evicted or terminated, within the past three years, from a federally housing program, or is currently under termination or eviction from a federally assisted housing program for a serious violation of the lease.

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by MPHA, including Form HUD-9886.

MPHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

The family must not have violated any family obligation during a previous participation in the Housing Choice Voucher Program for three year prior to final eligibility determination. MPHA may make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

The family must pay any outstanding debt owed to MPHA or another assisted housing provider as a result of prior participation in any federal housing program within 180 days of MPHA's notice to repay. Upon repayment of the debt the family will be placed back on the waiting list with their same date and sequence time.

The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before MPHA will allow participation in its Housing Choice Voucher Program.

MPHA will check the criminal history for all adults in the household to determine whether any member of the family has engaged in any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.

MPHA will evaluate the applicant's record of previous tenancy on the Housing Choice Voucher Program and other PHA housing programs. If the record was unsatisfactory, e.g. poor landlord references, assistance may be denied.

If any applicant deliberately misrepresents the information on which eligibility

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or tenant rent is established, MPHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

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G. TENANT SCREENING [24 CFR 982.307]

MPHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

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

The owner is responsible for screening and selecting the family to occupy the owner's unit. Before MPHA approval of the tenancy, MPHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a) (3)]

- Previous landlord reference checks;

- Payment of rent and utility bills;

- Caring for a unit and premises;

- Respecting the rights of other residents to the peaceful enjoyment of their housing;

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

- Compliance with other essential conditions of tenancy.

If requested in writing, MPHA will give the owner:

- The family's current and prior address as shown in MPHA's records; and

- The name and address (if known by MPHA) of the owner at the family's current and prior address.

If requested in writing, MPHA will offer the owner other information in MPHA's possession concerning the family, including:

- Information about the family's tenancy history; or

- Information about drug-trafficking by family members

The same types of information will be supplied to any owners if requested in writing.

MPHA will advise families how to file a complaint if they have been discriminated against by an owner. MPHA will advise the family to make a Fair Housing complaint. MPHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CONTINUED ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

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Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment. If any of the reasons for denial become applicable to the applicant after the initial determination of eligibility but before the effective date of the contract, the tenant would be determined ineligible.

I. INELIGIBLE FAMILIES [24 CFR 5.612]

College Students

No assistance shall be provided to a family where the head of household is enrolled (full time or part time) as a student at an institution of higher education who is:

Under 24;

Not a U.S. Veteran;

Unmarried and does not have a dependent child, unless:

The student is eligible and the student's parents (individual or jointly) are income eligible for the program; or

The student can demonstrate absence or independence from their parents.

An Independent Student must meet one or more of the following criteria:

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

Be an orphan or ward of court through age 18;

Be a Veteran of the U.S. Armed Forces;

Be married;

Have a legal dependent(s) other than a spouse (i.e., dependent children or an elderly dependent parent); or

Be unclaimed as a dependent on another person's tax return.

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

CHAPTER 3

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d)(1), 982.204, 982.205, 982.206]

INTRODUCTION

It is MPHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan. By maintaining an accurate waiting list, MPHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

MPHA uses a waiting list for admission to its Housing Choice Voucher Program tenant-based assistance program. MPHA also maintains a wait list for each Project Based Voucher Contract.

Except for Special Admissions, Ports and applicants for Project-Based Vouchers, applicants will be selected from the MPHA HCV Waiting List in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan. For Special Admissions, each agency that is authorized to refer families for the vouchers for their program will determine the preference among their pool of applicants.

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

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

Applicant name

Family unit size (number of bedrooms family qualifies for under MPHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

Annual (gross) family income

Number of persons in family

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B. LOCAL PREFERENCES [24 CFR 982.207]

MPHA will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list.

Except for Special Admissions, applicants for Housing Choice Voucher Program assistance will be taken from the Housing Choice Voucher Program waiting list in order of the following local preferences:

910 Working families and those unable to work due to age or disability (100 points) - Families with at least one adult who is employed at least 20 hours per week or who are active participants in accredited educational and local training programs designed to prepare the individual for the job market. This preference is automatically extended to elderly families or families whose head or spouse is receiving income based on their inability to work. Families who are graduates of or active participants in educational and training local programs designed to prepare the individual for the job market may also claim this Preference.

(2) **Victims of Domestic Violence (25 points)** - an applicant who has vacated or needs to vacate due to actual or threatened physical violence directed against the applicant or one or more family members of the applicant's family by a current or former spouse or cohabitant, person with whom the applicant has or had a dating relationship; person with whom the applicant has a child, or another family member.

Verification - proof of a court case against a perpetrator of domestic violence, active protection orders designed to protect the applicant or family member of an applicant against domestic violence, police reports and photographs of the victim, information provided by a domestic violence victims organization or shelter, or other reliable witness statements.

(3) **Veteran of the Armed Services (25 points)** – Honorably discharged head or spouse who served in the armed services. Widow or widower may claim the preference if a marriage license is supplied. Discharged members must be currently in resident in the household (ex-spouse does not qualify).

Verification – Copy of DD2-14

(4) **Disabled/Handicapped/ 62 years of Age or Older (25 points)** – Person with disabilities as defined in Section 223 of the Social Security Act.

Verification – Head or spouse must be currently receiving Social Security (S.S.I.), which also includes person with the disease of Acquired Immune Deficiency Syndrome. If the Head of Household or Spouse feels he or she is an individual with a disability, but is not receiving Social Security or S.S.I., he or she may still claim this Preference. This Preference must be verified by a third-party professional, such as a physician, prior to housing.

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(5) **Displaced persons (5 points)** – Code Enforcement Verification – Certification and/or copy of the letter stating the family must vacate the premises due to code enforcement from local or other governmental agency. This displacement must have occurred within the last 90 days AND the code violation(s) cited cannot be determined to have resulted from action or inactions of the family. TENANT/LANDLORD REALTIONSHIP MUST HAVE EXISTED.

Flood/Fire/Natural Disaster: Verification – Certification from local or other governmental agency indicating the condition of the home and the family is unable to reside in the dwelling due to flood and/or natural disaster. Flood, fire, or natural disaster must have occurred within the last 90 days and the family cannot have received permanent replacement housing. TENANT/LANDLORD RELATIONSHIP MUST HAVE EXISTED.

(6) **Date and Time of Application**

Note: Resequencing for ranking order is accomplished electronically which assures accuracy and fairness.

MPHA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

C. SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

MPHA admits a limited number of families under a Special Admissions procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. MPHA maintains separate records of these admissions.

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

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

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

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For housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;

A family residing in a project covered by a Project-based Housing Choice Voucher Program HAP Contract at the end of the initial HAP Lease/Contract term; and

Special Admissions Programs, subject to funding availability, are:

HUD VASH Homeless;

Homeless VASH;

Moderate Rehabilitation (MOD);

Families that have been designated as eligible for assistance under HUD's Disaster Assistance Program (DHAP);

Family Unification Program (FUP);

If specifically funded by HUD, Non Elderly Disabled Households;

If specifically funded by HUD, Non Elderly Households with a disability transitioning from nursing homes or other health care institutions into the community.

D. **INCOME TARGETING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year MPHA will reserve a minimum of 75 percent of its Housing Choice Voucher Program new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families." MPHA will admit families who qualify under the Extremely Low Income limit to meet the income-targeting requirement, regardless of preference.

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

MPHA is also exempted from this requirement where it is providing assistance to low income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt out.

E. **PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]**

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify MPHA in writing when their circumstances change.

F. **ORDER OF SELECTION [24 CFR 982.207(e)]**

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MPHA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the Administrative Plan.

G. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

MPHA will verify that a family claiming an applicant preference qualifies for the preference based on the family's current circumstances.

The family must also qualify for the preference at the time of pull from the wait list.

If verification results in a change of preference status, the applicant will be notified and placed back on the waiting list in the appropriate order.

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

The Waiting List will be purged at least every 12 months by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state a deadline for response. Failure to respond by the deadline will result in the applicant's name being removed from the waiting list.

An extension of 30 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed from the wait list without further notice, and the returned envelope and letter will be maintained in the file.

If a letter is returned with a forwarding address, it will be re-mailed one time to the forwarding address. If it is returned again, with a new or without a forwarding address, the applicant will be removed from the waiting list without further notice.

If an applicant is removed from the waiting list for failure to respond or returned mail, the applicant will not be entitled to reinstatement unless the Program Manager determines there were circumstances beyond the person's control to respond timely.

CHAPTER 4

APPLYING FOR ADMISSION AND BRIEFINGS

[24 CFR 982.204]

INTRODUCTION

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

Upon pulling participants from the waiting list, MPHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, MPHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted and the information that will be provided to families.

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of taking applications is to permit MPHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of MPHA's programs must complete an application when application taking is open. Applications will be made available in an accessible format upon request from a person with a disability.

When the waiting list is open, any family asking to be placed on the waiting list for Housing Choice Voucher Program rental assistance will be given the opportunity to complete an application.

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

The pre-applications will be dated and time-stamped.

The second phase is the "final determination of eligibility" (referred to as the full application). The second phase takes place when the family reaches the top of the waiting list. It is during this final application phase that MPHA verifies all

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HUD and MPHA eligibility factors in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d) (1)]

When MPHA opens the waiting list, MPHA will advertise through public notice in the local media outlets including minority publications and media entities, with the location(s), and program(s) for which applications are being accepted:

The notice will contain:

The date and time when the waiting list will open.

The process by which families may apply.

The program(s) for which applications will be taken.

A brief description of the program(s).

Notice that public housing residents must submit a separate application to apply.

Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes MPHA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

When the waiting list is open, MPHA will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b) (2)]

Closing the Waiting List

MPHA may stop applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

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The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 12 months or longer. When the period for accepting applications is over, MPHA will add those new applicants to the waiting list in accordance with the procedure detailed in the chapter of this Administrative Plan titled "Establishing Preferences and Maintaining the Waiting List."

Referrals will be accepted from MPHA Special Admissions: Single Room Occupancy (SRO), Family Unification Program regardless of whether a family is on the PHA regular voucher wait list, regardless of whether the regular PHA voucher wait list is open or closed, consistent with 24 CFR 982.206 (c).

Limits on Who May Apply

When the waiting list is open:

Any family asking to be placed on the waiting list for Housing Choice Voucher Program rental assistance will be given the opportunity to complete an application.

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

MPHA will utilize a pre-application. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the pre-application is to determine preliminary rank on the waiting list. The pre-application will contain at least the following information:

Applicant name

Family Unit Size (number of bedrooms the family qualifies for under MPHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial and ethnic designation of the head of household

Annual (gross) family income

Social Security Number

Birth date

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

D. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]

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Applicants are required to inform MPHA in writing of changes in address. Applicants are also required to respond to requests from MPHA to update information on their application. Failure to respond by the specified deadline will result in withdrawal of the application.

If after a review of the pre-application the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation.

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

This written notification of preliminary eligibility may be mailed to the applicant by first class mail, via electronic transmission or distributed to the applicant in the manner requested as a reasonable accommodation.

If a family has a bad debt or previous balance due to MPHA, they are eligible to apply for the waiting list. When the applicant family is pulled from the waiting list, they will be given 180 calendar days to pay that debt in full. Upon payment of the debt, the family will be replaced back on the waiting list with their same date and sequence time. If the balance is not paid in full in 180 calendar days, the application will be withdrawn.

If the family is determined to be preliminarily ineligible or the pre-application is late and/or incomplete based on the information provided in the pre-application, MPHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See "Complaints and Appeals" chapter.

If a family is terminated from MPHA's Single Room Occupancy (SRO), Mod Rehab, PBA, PBV or other Special Admissions programs, they will be withdrawn from the HCV waiting list as well. The family must wait until the waiting list is reopened to reapply.

Families that obtain vouchers through methods other than MPHA's traditional HCV Admissions Process will be removed from the waiting list. Examples of this include families porting in, those receiving vouchers through an Opt-Out program and by other means not listed.

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E. PULLING FROM THE WAITING LIST [24 CFR 982.204]

MPHA will utilize a lottery system to accept a limited number of applications submitted during the opening of the wait list. MPHA will utilize a random system in ordering the names on the wait list. The random number serves as a date and time of application and is used as a tiebreaker in cases where families hold equal preference points. When funding is available, families will be selected from the waiting list in the determined sequence and subject to income targeting requirements. In order to meet the income targeting requirement, MPHA will admit families who are “extremely low-income” regardless of preference in accordance with *Chapter 3 Section D* of the HCV Administrative plan.

Families will be notified in writing that they have reached the top of the waiting list. At this time, they will be asked to provide information on their income and family composition to verify their eligibility for the program. Prospective tenants will be given an opportunity to respond to the request. Once eligibility is established, they will be invited to an upcoming briefing.

Once an Applicant is pulled from the waiting list, applicants owing a balance to MPHA must pay off the balance within 180 days of the pulled date or they will be withdrawn from the waiting list. MPHA may enter into a repayment agreement with special and/or targeted populations.

When there is insufficient funding available for the family at the top of the list, MPHA will not admit any other applicant until funding is available for the first applicant.

Based on MPHA's turnover and the availability of funding, groups of families will be selected from the waiting list to begin the verification process.

Families who are active or recent tenants of MPHA may reach the top of the waiting list and be called in for a briefing with a balance due to MPHA. These families will be given 30 days to pay that balance in full. These clients may have repayment agreements in effect; however, the total balance must be paid in full to continue to be eligible for the Housing Choice Voucher Program. If the balance is not paid in full before the specified deadline, the application is withdrawn from the waiting list and the applicant must wait to reapply when the waiting list is next opened.

F. COMPLETION OF A FULL APPLICATION

When MPHA is ready to select applicants, applicants will be required to complete a full application and sign it, unless assistance is needed or a request for accommodation is made by a person with a disability.

G. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

MPHA will give participants a copy of HUD Form 903 to file a complaint.

H. VERIFICATION [24 CFR 982.201(e)]

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Information provided by the applicant will be confirmed in accordance with the procedures detailed in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. The verifications may not be more than 60 days old at the time of issuance of the Voucher.

CHAPTER 5

VERIFICATION PROCEDURES

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

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by MPHA. Agency staff will use Enterprise Income Verification system (EIV) to streamline the verification of a family's income. This will be the first method of verifying and validating tenant reported information.

Applicants and program participants must provide true and complete information to MPHA whenever information is requested. MPHA's verification requirements are designed to maintain program integrity. This chapter explains MPHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. MPHA will obtain proper authorization from the family before requesting information from independent sources.

After the verification process is completed, MPHA will make a final determination of eligibility. This decision will be based upon information provided by the family, the verification completed by MPHA, and the current eligibility criteria in effect. If the family is determined to be eligible, MPHA will issue a voucher at the eligibility appointment.

A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

MPHA will verify information through the five methods of verification acceptable to HUD in the following order in accordance with its verification procedures:

1. Enterprise Income Verification (EIV) as mandated by 24 CFR 5.233.
2. Review of Documents
3. Third-Party Written
4. Third-Party Oral
5. Certification/Self-Declaration

Types of income that may be verified using Enterprise Income Verification (EIV).

Gross Wages and Salaries (including overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services.)

Unemployment Compensation

Welfare Benefits

Social Security Benefits (including Federal and State benefits, Black Lung benefits, dual benefits.)

Social Security (SS)

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Supplemental Security Income (SSI)

MPHA will compare EIV reported information to tenant reported information. EIV may alleviate the need for third-party verifications when a family does not dispute the EIV information and can provide acceptable supporting documentation, such as current pay stubs, letter from employer, etc. Third-party verification is not required if the tenant reported information agrees with EIV.

EIV data will be used to validate family reported income and supplement family provided documents. HUD considers an income discrepancy to be an income source not reported by a tenant, or an income source reported at a substantial income difference from EIV (\$200 per month, or \$2,400 annually). If there is no discrepancy, MPHA will use current tenant provided documentation to calculate annual income.

MPHA will request written third party verification when:

Documents provided by the family are not acceptable to MPHA

Tenant reported information differs from EIV reported information

Family is unable to provide verification documents requested by MPHA.

Family disputes EIV and one or both of the above conditions apply.

Tenant Obligation to Supply MPHA/HUD with Information (24 CFR 960.259 & 982.551)

The family must supply and information that MPHA or HUD determines is necessary in the administration of the program

The family must supply any information requested by MPHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

Rejection of Tenant Provided Documents

MPHA may reject tenant provided documentation when

Document provided is not an original

Original document has been altered, mutilated, or is not legible

Document appears to be a forged document or does not appear to be authentic.

MPHA must analyze all data (EIV data, third-party verification and other documents/information provided by the family).

MPHA will review historical income data for patterns of employment, paid benefits, and/or receipt of other income, when the MPHA cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours, and suspected fraud.

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The MPHA will use the most current verified income data (and historical income data if appropriate) to calculate anticipated annual income.

Comments

HUD recommends that tenant-provided documents should be dated within the last 60 days of the PHA interview date.

If the PHA is unable to anticipate annual income using current information due to historical fluctuations in income, the PHA may average amounts received/earned to anticipate annual income.

Note that if the tenant disputes EIV Social Security (SS)/ Supplemental Security Income (SSI) benefit data, the PHA should request the tenant to provide the PHA with a current, original Social Security Administration (SSA) notice or benefit letter within 10 business days of the PHA interview date. The tenant may contact SSA at 1-(800) 772-1213 or visit their local SSA office.

Resources for Historical Income Data:

Social Security Earnings Statement (summary of gross earnings for each year that the participant has worked in his/her lifetime) may be obtained from the Social Security Administration. Request for this document may be done via mail or online at www.ssa.gov

Two years of earnings may be obtained from the EIV System or local State Wage Information Collection Agency (SWICA). This information is not available to PHAs in States where the local SWICA has entered into an agreement with HUD to obtain wage and unemployment compensation data.

Last eight (8) amounts of Social Security benefits paid to a participant (or household member) may be obtained from the EIV system.

MPHA will allow ten business days for return of third-party verifications before going to the next method. MPHA will document the file as to why third-party written verification was not received.

For applicants, verifications may not be more than 60 calendar days old at the time of Voucher issuance. For participants, verifications may not be more than 90 calendar days old at the time of completion of recertification.

Third-Party Written Verification

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail, fax or e-mail. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third-party written verifications.

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MPHA will accept third-party verifications in the form of computerized printouts, pay stubs and letters from the employer on employer letterhead delivered by the family from the following,

- Social Security Administration
- Unemployment Compensation Board
- Veterans Administration
- Welfare Assistance
- City or County Courts
- Employers

MPHA will send requests for third-party written verifications if needed.

Credit Reports

When MPHA conducts annual/interim reviews of zero-income families, MPHA may consider running credit reports.

Third-Party Oral Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete an oral verification form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third-party verification is not available, MPHA will compare the information to any documents provided by the Family. If provided by telephone, MPHA must originate the call.

Review of Documents

MPHA will accept tenant provided information as the primary source if the documents provide complete information, unless provided documentation is not an original, original documents have been altered, mutilated or are not legible, or if the documents appear to be forged.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

MPHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Consecutive and original pay stubs
- Social Security Administration Award Letter
- Bank Statements
- Pension Benefit Statements

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Temporary Assistance to Needy Families (TANF) Award Letter

Other official and authentic documents from a Federal, State, or Local agency

Computer print-outs from the employer

Signed letters (provided that the information is confirmed by phone)

Other documents noted in this Chapter as acceptable verification

MPHA will accept faxed documents.

MPHA will accept photocopies when appropriate.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, MPHA will utilize the third-party verification.

Self-Certification/Self-Declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification requires an affidavit certification statement under penalty of perjury.

B. RELEASE OF INFORMATION [24 CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, *Authorization for the Release of Information/Privacy Act Notice*.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance. It is a family obligation to supply any information and to sign consent forms requested by MPHA or HUD.

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C. ITEMS TO BE VERIFIED [24 CFR 982.516]

All income.

Full-time student status including high school students who are 18 or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Child care expense where it allows an adult family member to be employed, or to actively seek work, or to further his/her education.

Total medical expenses of all family members in households whose head or spouse/co-head is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an adult family member to be employed.

Disability for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status.

Social security numbers for all family members.

Familial/Marital status when needed for head or spouse definition.

Other factors that affect the determination of adjusted income or income-based rent.

Verification of Reason for Reduction in Welfare Benefits:

- MPHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for noncompliance with the Self-Sufficiency Program when assessing the family's request for rent reduction.

D. VERIFICATION OF INCOME [24 CFR 982.516]

EIV will be used to verify and validate tenant reported information. This section defines some specific methods MPHA will use to verify various types of income.

Employment Income

Verification forms request the employer to specify the:

Dates of employment

Amount and frequency of pay

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year to date earnings

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Estimated income from overtime, tips, and bonus pay expected during next 12 months

Other acceptable methods of verification include:

1. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
2. W-2 forms plus income tax return forms.
3. Self-certifications and income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, MPHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Social Security, Pensions, Supplementary Security Income (SSI), Disability Income

Acceptable methods of verification include:

1. Award or benefit notification letters prepared and signed by the providing agency.
2. Computer report electronically obtained or in hard copy.

Unemployment Compensation

Acceptable methods of verification include:

1. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.
2. Payment stubs.

Welfare Payments or General Assistance

Acceptable methods of verification include:

1. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
2. Computer-generated Notice of Action.
3. Computer-generated list of recipients from the Ohio Department of Job and

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Family Services.

Alimony or Child Support Payments

Acceptable methods of verification include:

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support.
3. Copy of latest check and/or payment stubs from Court Trustee. MPHA must record the date, amount, and number of the check.
4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide one of the following:

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

A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

A notarized affidavit from the family indicating the amount(s) received.

A welfare notice of action showing amounts received by the welfare agency for child support.

A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income from a Business

In order to verify the net income from a business, MPHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

1. IRS Form 1040, including:
 - Schedule C (Small Business)
 - Schedule E (Rental Property Income)
 - Schedule F (Farm Income)

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application.
4. Documents such as manifests, appointment books, cashbooks, bank statements, and receipts will be used as a guide for the prior 180 calendar days (or lesser period if not in business for 180 calendar days) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), MPHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

Recurring Gifts

The family must furnish a self-certification, which contains the following information:

The person who provides the gifts

The value of the gifts

The regularity (dates) of the gifts

The purpose of the gifts

MPHA reserves the right to verify the income amount and source of the person providing the recurring gift.

Zero-Income Status

Families claiming to have no income will be required to execute income verification forms. MPHA will utilize EIV methods to verify a client's zero-income status. MPHA may also utilize credit checks.

Full-time Student Status

Only the first \$480 of the earned income of full time students, other than Head, Co-Head, or Spouse, will be counted towards family income.

Financial aid, scholarships and grants are not counted towards family income. Verification of full time student status includes:

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Written verification from the registrar's office or other school official.

School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

E. **INCOME FROM ASSETS [24 CFR 982.516]**

Bank Account Interest Income and Dividends

Acceptable methods of verification include, in this order:

1. Account statements, passbooks, certificates of deposit, or MPHA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution provided that MPHA must adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

F. **VERIFICATION OF ASSETS**

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Family Assets

MPHA will require the information necessary to determine the current cash value of the family's assets (the net amount the family would receive if the asset were converted to cash).

Acceptable verification may include any of the following:

Verification forms, letters, or documents from a financial institution or broker.

Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.

Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.

Real estate tax statements if the approximate current market value can be deduced from assessment.

Financial statements for business assets.

Copies of closing documents showing the selling price and the distribution of the sales proceeds.

Appraisals of personal property held as an investment.

Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all Certifications and Recertifications, MPHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third-party verification will be obtained wherever possible.

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G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]

Child Care Expenses

Childcare voucher stubs.

Written verification from the person who receives the payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will not be reimbursed by insurance or a government agency.

Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

For attendant care:

A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of

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the next 12 months.

Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. MPHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

MPHA will use mileage at the IRS rate, cab fare, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Disability Expense [24 CFR 5.611(c)]

In All Cases:

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

H. **VERIFYING NON-FINANCIAL FACTORS** [24 CFR 5.617(b)(2)]

Verification of Legal Identity

In order to prevent program abuse, MPHA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

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Certificate of Birth, naturalization papers
Church issued baptismal certificate
Current, valid driver's license
U.S. military discharge (DD 214)
U.S. passport
Voter's registration
Company/Agency Identification Card
Department of Motor Vehicles Identification Card/State Identification Card
Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

Certificate of Birth
Adoption papers
Custody agreement
Health and Human Services ID
School records

If none of these documents can be provided, a third party who knows the person may, at MPHA's discretion, provide verification.

Verification of Marital Status

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

Verification of Relationship

Official identification showing names
Birth certificates

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Baptismal certificates

Verification of Guardianship

Court-ordered assignment

Affidavit of parent

Verification from social services agency

School records

Verification of Permanent Absence of Family Member

If an adult or child member who was formerly a member of the household is reported permanently absent by the family, MPHA will consider any of the following as verification:

Husband or wife institutes divorce action. Husband or wife institutes legal separation.

Order of protection/restraining order currently active with the courts, obtained by one family member against another.

Proof of another home address, such as utility bills, canceled checks for rent, current driver's license, or current verifiable lease or rental agreement, if available.

Statements from other agencies such as social services or a written statement from the owner or manager that the adult family member is no longer living at that location.

If the adult or child family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated. If the incarceration is due to criminal or drug related activity while a member of the household, assistance may be terminated.

If no other proof can be provided, MPHA will accept a self-certification from the head of household. If the head of household is the absent member, proof can be provided by the spouse or co-head.

Verification of Change in Family Composition

MPHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, owners, neighbors, credit data, school or DMV records, and other sources.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)) or verified by an appropriate diagnostician such as physician, psychiatrist, psychologist, rehab specialist, or licensed social worker.

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Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while MPHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

MPHA will require citizens to provide documentation of citizenship.

Acceptable documentation will include at least one of the following original documents:

- United States birth certificate

- United States passport

- Resident alien/registration card

- Social security card

- Other appropriate documentation as determined by MPHA

Eligible Immigrants age 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Noncitizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. MPHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, MPHA must request within ten days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse/co-head.

Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

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Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

MPHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Extensions of Time to Provide Documents

MPHA will grant an extension not to exceed 30 calendar days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

- Resident Alien Card (1-551)
- Alien Registration Receipt Card (1-151)
- Arrival-Departure Record (1-94)
- Temporary Resident Card (1-688)
- Employment Authorization Card (I-688B)
- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified.

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If MPHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for three years, unless the ineligible individual has already been considered in prorating the family's assistance.

Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers must be provided for all family members. Verification of social security numbers will be done through a social security card issued by the Social Security Administration. If a family member cannot produce a social security card, only the documents listed below showing his or her social security number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the social security card information provided are complete and accurate:

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A driver's license

Identification card issued by a Federal, State or local agency

Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)

An identification card issued by an employer or trade union

An identification card issued by a medical insurance company

Earnings statements or payroll stubs

Bank Statements

IRS Form 1099

Benefit award letters from government agencies

Retirement benefit letter

Life insurance policies

Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records

Verification of benefits or social security number from Social Security Administration

MPHA will provide a head of household 90 days to –provide documentation of the social security number. MPHA may grant the head of household an additional 90 if unforeseen circumstances outside the control of the head of household prevent disclosure of required documentation. New family members requested to be added to the household will be required to produce their social security card or provide the substitute documentation described above together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time of the request for assistance or at the time of processing the interim/recertification of family composition reported to MPHA. New household members will not be added to the family composition until the family has complied with the social security number disclosure and verification requirements.

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable medical professional and provided to MPHA.

I. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207]

Local Preferences

Disability Preference: This preference is available for households where the head, co-head or spouse is a person who is disabled as defined in this Administrative Plan. MPHA will require one or more of the following documentation:

Appropriate documentation from a knowledgeable professional. MPHA will not inquire as to the nature of the disability except as to verify necessity for an

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accessible unit.

Award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

Elderly Preference: to be given to households where the Head, Co-Head or Spouse is elderly (62 years of age or over). MPHA will require one or more of the following for verification:

Birth Certificate

Social Security Statements

Baptismal Records

Driver's License

Referrals of elderly or non-elderly disabled persons referred by Living Arrangements for the Developmentally Disabled (LADD): This preference is available for elderly or nonelderly disabled persons referred to MPHA's HCV Wait List through LADD. MPHA will require documented referral from LADD.

Referrals of Homeless Veterans by the Middletown Department of Veteran Affairs (VA) Medical Center: This preference is for homeless veterans referred to MPHA's HCV Wait List by the Middletown VA Medical Center meeting the MPHA will require documented referral from the Middletown VA Medical Center.

Referrals of elderly or non-elderly disabled persons referred by the Center for Independent Living Options (CILO): This preference is available for elderly or nonelderly disabled persons referred to MPHA's HCV Wait List through CILO. MPHA will require documented referral from CILO.

FUP Voucher Youth maximizing out of FUP: This preference is for FUP eligible youths issued a FUP voucher that has reached the 18-month maximum period of housing assistance under program rules.

CHAPTER 6

BRIEFING AND VOUCHER ISSUANCE

[24 CFR 982.301, 982.302]

INTRODUCTION

MPHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. They are also informed of the policies for how changes in the family composition will be handled.

A. **BRIEFING TYPES AND REQUIRED ATTENDANCE** [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who have reached the top of the waiting list. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to a housing specialist.

Briefings will be conducted in English and may include a videotaped presentation.

The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

MPHA will not issue a voucher to a family unless the household representative has attended a briefing and has been deemed eligible through completion of the verification process. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings without prior notification and approval to reschedule from MPHA may be denied admission based on failure to attend the mandatory briefing appointment. MPHA will conduct individual briefings for families with disabilities, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. MPHA also includes other information and/or materials, which are not required by HUD.

The family is provided with the following information and materials:

The Housing Choice Voucher Program Tenant Handbook

The HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

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The HUD brochure "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office.

The HUD pamphlet on lead-based paint entitled *Protect Your Family From Lead in Your Home* and information about where blood level testing is available.

MPHA's flyer "An Important Message to Prospective Owners."

The HUD Tenancy Addendum for Housing Choice Voucher Program Tenant-Based Assistance Housing Choice Voucher Program.

MPHA's flyer "Information to Owners" regarding tenancy history.

MPHA's flyer "Fair Market Rents."

The HUD form "Housing Discrimination Complaint."

Additional information includes "Tenant Obligations," "Reasons for Denial or Termination of Assistance," "Your Rights for an Informal Review," "Housing Quality Standards" and information concerning program fraud.

MPHA will provide the family with information on how to obtain a listing of available units. MPHA will also provide the family information on agencies that help families find units outside of areas of poverty or minority concentrations.

The information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each neighboring housing agency for use by families who move under portability.

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.

Information regarding MPHA's outreach efforts, which assist families who are interested in or experiencing difficulty in obtaining available housing in low-poverty areas.

MPHA's sample lease for owners who do not have a lease for their unassisted tenants.

The Housing Choice Voucher Program, including the term of the voucher and MPHA's policy for requesting extensions or suspensions of the voucher (referred to as tolling).

A description of the method used to calculate the housing assistance payment for a family, including how MPHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule; and how MPHA determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.

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The form the family must use to request approval of tenancy and a description of the procedure for requesting approval for tenancy.

The MPHA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.

If the family includes a person with disabilities, MPHA will ensure compliance with CFR 8.6 to ensure effective communication.

Mover Briefings

Families currently participating in the HCVP Program who wish to move must attend a Mover's Briefing. The purpose of this briefing is to update families on changes in the program and to assist them in successfully moving with assistance. If eligible to move, the family will be issued a voucher to find a new unit. The dates and times for the Mover's Briefings are posted on MPHA's website and in its offices.

B. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, MPHA will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that MPHA stays as close as possible to 100 percent lease-up. MPHA performs a monthly calculation to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent MPHA can over-issue (issue more vouchers than the budget allows to achieve lease-up).

MPHA may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers that are over-issued must be honored. If MPHA finds it is over-leased, it must adjust future issuances of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

C. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

After being deemed eligible through completion of the verification process, each household will be issued a voucher, which represents a contractual agreement between MPHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

Expirations

The voucher is valid for a period of 60 calendar days from the date of issuance. The family must submit a Request for Tenancy Approval and Lease within the 60-day period unless an extension has been granted by MPHA.

If the voucher has expired, and has not been extended by MPHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. *If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.*

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Suspensions

When a Request for Tenancy Approval is received, MPHA will deduct the number of days required to process the request from the 60-day term of the voucher.

Extensions

MPHA may extend the term up to 60 days from the beginning of the initial term if the family needs and requests an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability.

Extensions are permissible at the discretion of MPHA primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time that has affected the family's ability to find a unit within the initial 60-day period. Verification is required.
- The family was prevented from finding a unit due to disability accessibility requirements or large size (5) bedroom unit requirement. A Search Record is part of the required verification.
- The family was unable to find a unit within the jurisdiction and needs assistance finding suitable housing outside of the jurisdiction.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the MPHA Office to request assistance. MPHA will provide the family information on how to obtain a listing of property listings. MPHA will also provide the family information of agencies that help families find units outside of areas of poverty or minority concentrations or in neighboring jurisdictions.

D. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]

In those instances when a family assisted under the Housing Choice Voucher Program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Program Manager of MPHA shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

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If documentation is not provided, MPHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

E. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER **[24 CFR 982.315]**

To be considered the remaining member of the tenant family, the person must have been previously approved by MPHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor; or
- MPHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child (children) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

F. ENCOURAGING PARTICIPATION IN LOW POVERTY AREAS

At the briefing, families are encouraged to search for housing in non-impacted areas both in and outside the MPHA jurisdiction.

The assistance provided to such families includes working directly with staff that will assist interested families in finding housing in low-poverty neighborhoods. Their assistance may include, but is not limited, to:

- Providing families with a search record form to gather and record info.
- Direct contact with owners.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with owner groups.
- Formal or informal discussions with social service agencies.
- Meeting with rental referral companies or agencies.
- Meeting with fair housing groups or agencies.

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G. RESCINDING VOUCHERS

If, due to budgetary constraints, MPHA must rescind vouchers that have already been issued to families, MPHA will do so in accordance with the instructions in each category listed below.

Category 1: Vouchers issued but for which MPHA has not yet received a Request for Tenancy Approval (RFTA) – Vouchers in this category will be rescinded based on the date in which they were issued.

Category 2: Voucher issued in which MPHA has received a Request for Tenancy Approval (RFTA) – Vouchers in this category will be rescinded based on the date in which the RFTA was received starting with the most recently received.

H. TERMINATION OF VOUCHERS WITH ACTIVE HAP CONTRACTS

If, due to budgetary constraints, MPHA must terminate vouchers under an active Housing Assistance Payment (HAP) contract, MPHA will do so in accordance with HUD requirements and the guidelines set forth below.

On a monthly basis, MPHA shall undertake a review of utilization for the purpose of determining if the program is fully utilizing the available annual budget authority. In the event that ABA is under-utilized or over-utilized, appropriate corrective action will be taken to increase or decrease utilization as appropriate. Reasonable and necessary measures will be undertaken to maintain program costs in line with the objectives of a full, but not excessive, utilization of funding by:

- Optimizing the number of qualified families assisted by the program (full, but not excessive, leasing of the baseline number of vouchers authorized) while providing housing choice, and
- Ensuring that Rents to Owners are reasonable in light of comparable rents in the unassisted market.

MPHA shall periodically review and adjust operating parameters of the program to achieve the above objectives. To the extent necessitated by program circumstances, MPHA shall consider, adopt, and implement any or all of the following cost containment or cost reduction measures:

- Adjust Payment Standards
- Adjust Utility Allowances
- Restrict Portability and Moves to within MPHA's Jurisdiction
- Ensure Reasonable Rents
- Adjust Subsidy Standards
- Adjust Interim Reexamination Policies and Procedures
- Restrict the Issuance of Vouchers

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➤ Cancel Vouchers in Search Status

Declaration of Insufficient Funding - Prior to the termination of any voucher under an active HAP contract for reason of insufficient funding, a formal "Declaration of Insufficient Funding" shall be issued. This declaration shall be made in writing and signed by the Executive Director.

A Declaration of Insufficient Funding will be made only if the following conditions are present, documented, and confirmed:

1. MPHA has taken all reasonable and prudent steps to reduce HAP costs and a thorough analysis of remaining ABA authority has been completed and after factoring in the projected impact of the reasonable HAP cost containment and control steps outlined above, determines that ABA and any available Net Restricted Assets (NRA) funding is or will be depleted and there will be insufficient funds to support the current or projected number of assisted families for any part of the remainder of the calendar year;
2. The MPHA has, in good faith, investigated possible alternative sources of funds, including but not limited to Project Reserves, Administrative Fee Reserves, and Non-Federal resources, available to support the current or projected level of HAP assistance through the remainder of the calendar year and has determined that such available alternative funding is insufficient; and
3. The analysis, findings, and actions detailed above are thoroughly documented and approved in writing by the Executive Director.
4. The formal "Declaration of Insufficient Funding" shall identify the magnitude of the funding shortfall, past, current and planned steps taken to mitigate the shortfall, and an assessment of the fiscal impact of continuing HAP assistance at the current or projected rate.

Authorization to Terminate HAP Contracts - Authority to approve the termination of HAP contracts due to insufficient funding is vested in the MPHA Board of Commissioners. Approval to terminate HAP contracts shall be granted only through formal resolution of the Board after it has duly considered a formal **Declaration of Insufficient Funding**.

A Request to Terminate HAP Contracts Due to Insufficient Funding will be presented to the Board of Commissioners in writing and detail:

- The approximate number and dollar value of HAP contracts to be terminated;
- The timetable for contract terminations; and
- The Administrative Plan reference that details the procedure to be used to terminate the contracts; and

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- Signature of the Executive Director accompanied by the Declaration of Insufficient Funding.

Selecting Contracts to be Terminated - The MPHA shall terminate contracts under this provision to achieve a leasing/utilization rate that is consistent with the financial resources available to the HCV program. A HAP Contract Termination List shall be prepared which identifies each contract (by participant, owner, address, and effective date of the first HAP contract provided by the MPHA on behalf of the participant) to be terminated in accordance with the established order of priority.

Order of Priority for Contract Termination - The priority of contract termination shall be based on the date of initial MPHA assistance. Contracts shall be terminated in the order of initial contract effective date of a non-elderly and non-disabled family continuously assisted by the MPHA. Initial assistance is determined by the date of the first HAP contract that provided assistance to the participant began. This includes:

- **Outgoing portable vouchers.** Initial assistance for these vouchers shall be determined by the date of the first HAP contract that began the most recent period of continuous assistance for which the MPHA has responsibility for payment. This includes any contract executed by the receiving PHA.
- **Incoming Portable Voucher HAP Contracts** (for which the payments by the Initial PHAs have not been received in the last three consecutive months and for which the Initial PHA has been given appropriate notification and opportunity to cure the delinquency). Initial assistance is determined by the date of the first HAP contract that began the most recent period of continuously MPHA-administered assistance.
- **Incoming Portable Voucher HAP Contracts** (for which the initial PHA refuses to honor billings). The MPHA may be forced to absorb such contracts from time to time as a result of the initial agency's refusal to honor billing. The MPHA will absorb such contracts as funding permits; however, in the event of funding shortfalls, these contracts will be terminated.

Random Selection - In the event the above selection criteria fails to yield a sufficient number of contract terminations necessary to meet funding levels, additional contracts will be selected through a random lottery. Using the assigned voucher number, MPHA will randomly select numbers and rank them based on selection. Contracts will be terminated in order of ranking until a sufficient number of contracts have been identified to achieve the required cost reductions.

Notification of Contract Terminations - MPHA shall provide notification of HAP Contract terminations as follows:

- Landlords will be provided with 30 days written notice that the HAP Contract will be terminated in accordance with the terms and conditions of the contract for lack of funding. Contracts shall be terminated as of the last day of the monthly

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following the month in which the written notice is provided.

- Participants will be provided with 30 days written notice that their assistance will be terminated in accordance with the provisions of the Administrative Plan and HUD guidance. Participants shall not be entitled to a hearing for termination of assistance under this provision.
- An initial PHA with payment delinquencies of more than 3 months will be provided with a copy of the notices sent to the Owner and Participant. A copy of the Declaration of Insufficient Funding shall be attached to the notice.
- Receiving PHA of an MPHA outgoing portable family shall notified at least 60 days in advance of the effective date of termination of assistance. The receiving PHA may choose to absorb the voucher or terminate assistance. If the receiving PHA terminates the assistance, they shall be responsible for notification to the Owner and Participant.

Responsibility to Maintain Current Contact Information on File – Participants whose voucher is terminated for the reasons under this section, shall be responsible for maintaining current contact information on file with MPHA. If future funding permits the reinstatement of assistance and MPHA is unable to contact the family due to incorrect information on file, the family will be permanently removed from the program and no further efforts will be made to reinstate assistance. Households terminated due to insufficient funding shall be wait listed for a period of three years and shall be selected for issuance of a voucher prior to any applicants on the pre-application waiting list.

Resumption of Funding - Insufficiently funded participants will be offered the opportunity to receive vouchers in the reverse order of their termination under this section (i.e., those terminated last will be the first to receive offers of vouchers).

At the time it is determined that assistance may be resumed, MPHA will provide written notice to an impacted participants informing them of their opportunity to resume their voucher. This notice shall inform family of the:

- Process by which they will be assessed for eligibility for a voucher;
- Date, time, and location to which the family's affirmative response to the notice must be delivered; and
- The eligibility criteria for receipt of a voucher

All factors of initial eligibility will be re-assessed prior to reinstatement of a voucher and resumption of assistance. Only families meeting the eligibility requirements will be issued a voucher. Families that successfully lease a unit in accordance with the terms of their vouchers will be considered new admissions.

Suspension of Housing Assistance Payments - As an alternative to terminating active HAP Contracts, MPHA may choose to suspend housing assistance payments for a period of one month in any calendar year. Landlords and participants will be provided with a minimum of a 30 day notice of any such suspension of payments.

CHAPTER 7

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

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

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

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

For subsidy standards, an adult is a person 18 years old or older.

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51 % of the time" is defined as 183 days of the year, which do not have to run consecutively.

There will be a self-certification required of families who claim joint custody or temporary guardianship.

The parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

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

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

One bedroom will be generally be assigned for each two family members. MPHA will consider factors such as family characteristics including sex, age, or relationship.

Consideration will also be given for medical reasons and the presence of a Live-In Aide.

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Generally, MPHA assigns one bedroom to two people within the following guidelines:

Persons of different generations, adult persons of the opposite sex (other than partners), and unrelated adults should be allocated a separate bedroom.

Foster children will be included in determining unit size only if they will be in the unit for more than 180 consecutive calendar days.

Live-in attendants will generally be provided a separate bedroom.

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

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

A single pregnant woman with no other family members must be treated as a two-person family.

Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	PERSONS IN HOUSEHOLD	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10

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

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

MPHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size unit than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

The benefit of a larger unit size for a verified medical or health reason,

Elderly person(s), near elderly person(s) or person(s) with disabilities who may

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require a live-in attendant,

For necessary medical equipment,

Health issues of a family member that would require separate bedrooms.

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by MPHA's subsidy standards. Such request must be made in writing within 10 calendar days of MPHA's determination of bedroom size. The request must explain the need or justification for a larger number of bedrooms. Documentation verifying the need or justification will be required as appropriate.

Requests based on health-related reasons must be verified by a physician.

Head of household must submit written request (form provided by MPHA) for additional bedroom due to health issues or medical equipment.

Certified Professional must confirm the need for the additional bedroom.

MPHA may waive the professional confirmation if the nature of the disability is obvious (i.e. amputee, use of wheelchair, etc.).

All requests will be subject to the approval of the Program Manager.

MPHA Error

If MPHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

Changes for Applicants

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

Changes for Participants

The members of the family residing in the unit must be approved by MPHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform MPHA within 30 calendar days. MPHA will not adjust a family's voucher size between recertification exams unless the family is a FUP special admission. MPHA may deny household additions that will result in the family being overcrowded. The above referenced guidelines will apply.

Underhoused Families

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

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

- If a family with a disability is underhoused in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by MPHA.
- The family has been unable to locate a unit within 90 days.

Overhoused Families

If a family size decreases and the unit size is too large for the family, MPHA will issue a new voucher to the family for an appropriate size unit.

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

- If a family with a disability is overhoused in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by MPHA.
- The family has been unable to locate a unit within 90 days.

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

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

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

- The payment standard amount for the family unit size; or
- The payment standard amount for the unit size rented by the family.

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

Housing Quality Standards: Units shall be occupied by families of the appropriate size. This policy maintains the usefulness of the units, while preserving them both from excessive wear and tear and under-utilization. It is also fully compliant with HUD rules related to Occupancy Standards.

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FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

INTRODUCTION

MPHA will use the methods, as set forth in this Administrative Plan, to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. MPHA's policies in this Chapter address those areas which allow MPHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. **INCOME AND ALLOWANCES** [24 CFR 5.609]

Income includes all amounts, monetary or not, which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be counted and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Anticipated Annual Income, at the time of admission, reexamination, or recertification is based on the following:

Actual income being received (projected forward for a 12-month period), or

Past actual income received or earned within the last 12 months of the determination date, as HUD may prescribe in applicable administrative instructions when:

The family reports little or no income; and

The processing entity is unable to determine annual income due to

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fluctuations in income (e.g., seasonal or cyclical income)

Historical Amounts. If MPHA is unable to determine annual income using current information because the family reports little to no income or because income fluctuates, we may average past actual income received or earned within the last 12 months before the determination date to calculate annual income. We may also request the family to provide documentation of current income. If the family can provide acceptable documentation dated either within the 60-day period preceding the determination date or the 60-day period following the request date, we may use this documentation to determine annual income.

Rejection of documentation. MPHA may reject any income documentation for such reason as HUD may prescribe in applicable administrative instructions.

Adjusted Income is defined as the Annual Income minus any HUD allowable expenses and deductions.

HUD has six allowable deductions from Annual Income:

- **Dependent Allowance:** \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
- **Elderly/Disabled Allowance:** \$400 per family for families whose head, spouse, or co-head is 62 or over or disabled.
- **Allowable Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family.
- **Child Care Expenses:** Deducted for the care of children under 13 when childcare is necessary to allow an adult member to work, attend school, or actively seek employment.
- **Kinship Guardian Assistant Payment Allowances:** Kin-GAP payments are subsidies to children leaving the juvenile court system to live with a relative or legal guardian. During annual and/or interim reexamination of family income pursuant to 24 CFR 982.516, MPHA will exclude Kin-Gap payments and similar state guardianship payments made on behalf of the related child to the tenant household.
- **Allowable Disability Assistance Expenses:** Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

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

The annual income for qualified families may not be increased as a result of increases in earned income of a family member who is a person with disabilities beginning on the date on which the increase in earned income begins and continuing for a cumulative 12-month period. After the disabled family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is a family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

Whose annual income increases, as a result of new employment or increased earnings of a family member during or within 180 calendar days after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

Qualifying increases are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family

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member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

Initial Twelve-Month Exclusion

During the cumulative 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, MPHA will exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over the prior income of that family member.

Second Twelve-Month Exclusion and Phase-in

During the second cumulative 12-month period after the expiration of the initial cumulative 12-month period referred to above, MPHA must exclude from annual income of a qualified family 50 percent of any increase in income of a family member who is a person with disabilities as a result of employment over income of that family member prior to the beginning of such employment.

Maximum Four Year Disallowance

The earned income disallowance is limited to a lifetime 48-month period for each family member who is a person with disabilities. For each family member who is a person with disabilities, the disallowance only applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion during the 48-month period starting from the date of the initial exclusion.

If the period of increased income does not last for 12 consecutive months, the disallowance period may be resumed at any time within the 48-month period, and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).

No earned income disallowance will be applied after the 48-month period following the initial date the exclusion was applied.

Applicability to Child Care Expense Deductions

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

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

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Date the increase in earned income was reported by the family

Name of the family member whose earned income increased

Reason (new employment, participation in job training program, within 180 calendar days after receiving TANF) for the increase in earned income

Amount of the increase in earned income (amount to be excluded)

Date the increase in income is first excluded from annual income

Date(s) earned income ended and resumed during the initial cumulative 12-month period of exclusion (if any)

Date the family member has received a total of 12 months of the initial exclusion

Date the 12-month phase-in period began

Date(s) earned income ended and resumed during the second cumulative 12-month period (phase-in) of exclusion (if any)

Date the family member has received a total of 12 months of the phase-in exclusion

Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

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

Inapplicability to Admission

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

C. MINIMUM RENT [24 CFR 5.616]

Minimum Rent

"Minimum rent" is \$50. Minimum rent refers to the Minimum Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Hardship Requests for an Exception to the Minimum Rent

MPHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. MPHA will review all relevant circumstances brought to MPHA's attention regarding financial hardship as it applies to the minimum rent. The following section states MPHA's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed. (24 CFR 5.630)

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A hardship exemption shall be granted to residents who can document that they are unable to pay the minimum rent because of a long-term hardship (over 120 days). Examples under which residents would qualify for the hardship exemption from the minimum rent include, but are not necessarily limited to, the following:

- The family has lost eligibility for or is applying for an eligibility determination for a Federal, State, or local assistance program;
- The family would be evicted as a result of the imposition of the minimum rent requirements;
- The income of the family has decreased because of changed circumstances, including loss of employment; or
- A death in the family has occurred.

If it is determined that the hardship period was temporary, the tenant shall be required to repay any rent abated under this hardship provision.

MPHA Notification to Families of Right to Hardship Exception

MPHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly-adjusted income, 10% of monthly income, minimum rent or welfare rent.

MPHA notification will advise families that hardship exception determinations are subject to MPHA review and hearing procedures.

MPHA will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing.

- MPHA will request documentation as proof of financial hardship.
- MPHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualifies the family for an exception.

Suspension of Minimum Rent

MPHA will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until MPHA determines whether the hardship is:

- Covered by statute

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- Temporary or long term

"Suspension" means that MPHA must not use the minimum rent calculation until MPHA has made this decision.

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

If MPHA determines that the minimum rent is not covered by statute, MPHA will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

If MPHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

MPHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to MPHA" chapter for Repayment agreement policy).

Long-Term Duration Hardships [24 CFR 5.616(c)(3)]

If MPHA determines that there is a qualifying long-term financial hardship, MPHA must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

Retroactive Determination

MPHA will reimburse the family for any minimum rent charges which took effect after July 11, 2003 that qualified for one of the mandatory exceptions.

If the family is owed a retroactive payment, MPHA will provide reimbursement in the form of a cash refund to the family.

MPHA's definition of a cash refund is a check made out to the family.

MPHA will not provide a cash refund for amounts owed to the family which are less than \$5 and will offset the amount against future HAP payments.

D. ABSENCES FROM THE UNIT [24 CFR 982.54(d)(10), 982.551]

Families must notify MPHA before they move out of a unit, and must inform MPHA about any member of the household who will be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the unit for more than 30 consecutive days, the unit will be considered vacated and the HAP Contract and Voucher will be terminated. To determine if the family is absent from the unit, MPHA may conduct a home visit, write

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letters to the family at the unit, telephone the family at the unit, interview neighbors, check with the U.S. Postal Service, and verify if utilities are in service and being used.

If a family member leaves the unit to enter a medical facility, MPHA will seek advice from a reliable qualified source about the likelihood and timing of the family member's return. If the member will be permanently confined to a nursing home, the member will be considered permanently absent. If the family member will return in 90 days or less, the member will not be considered permanently absent.

If any family member is out of the home 90 or more consecutive days, he/she will be considered permanently absent.

If the family includes children that are temporarily absent due to placement in foster care, MPHA will determine when they will be returned home. If the children will be absent for 90 days or more, they will be removed from the certification and the unit size may be reduced.

Whenever an adult member leaves the household, the family is required to notify MPHA within 30 calendar days, whether the absence is temporary or permanent. Permanent moves from the household will trigger an interim reexamination.

Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, MPHA will treat that adult as a visitor for the first 30 days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher may be transferred to the caretaker subject to MPHA's screening criteria and approval.

If the appropriate agency cannot confirm the guardianship status of the caretaker, MPHA will review the status at 30-day intervals.

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

If custody is awarded for a limited time in excess of stated period, MPHA will state in writing that the transfer of the Voucher is for that limited time or as long as they have custody of the children. MPHA will use discretion as deemed appropriate in determining any further assignation of the Voucher on behalf of the children.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

MPHA may, at its discretion, transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 60 days and it is reasonable to expect that custody will be granted.

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

Visitors

Any person, adult or child, not included on the HUD 50058 who has been in the unit more than 14 consecutive days without MPHA approval, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Absence of verifiable evidence of any other permanent address will be considered verification that the visitor is a member of the household.

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

Use of the unit address as the visitor's current residence for any purpose may be construed as permanent residence. Any official court documentation, license and/or vehicle registration, employer documentation, utilities, cable/satellite service, and phone service will serve as proof of permanent residency.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and MPHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 120 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and MPHA

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

Family obligations require the family to request MPHA approval to add any other family member as an occupant of the unit and to inform MPHA of the birth, adoption or court-awarded custody of a child, marriage or death of a family member. MPHA will deny the addition of a family member, with the exception of an addition by birth, adoption, court-awarded custody of a child, or marriage, if the addition will result in overcrowding.

Families are required to report any additions to the household (with the exception of newborns) in writing to MPHA 10 business days prior to the proposed move-in date for MPHA approval. If the family does not obtain prior written approval from MPHA, any person the family has permitted to move in will be considered an unauthorized

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household member, and the move in will be considered a violation of Family Obligations. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

An interim reexamination will be conducted for additions to the household. In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court awarded custody.

Reporting Absences to MPHA

Reporting changes in household composition is both a HUD and a MPHA requirement. If a family member leaves the household, the family must report this change to MPHA, in writing, within 30 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent. MPHA will conduct an interim evaluation for changes that affect the Total Tenant Payment in accordance with the interim policy.

E. ANTICIPATING/AVERAGING ANNUAL INCOME [24 CFR § 913.106 (d)]

If it is not feasible to anticipate income for a 12-month period, MPHA may use the annualized income anticipated for a shorter period, subject to an Interim Adjustment at the end of the shorter period. (This method would be used for teachers who are only paid for 9 months, or for tenants receiving unemployment compensation.)

Alternatively, MPHA may average known sources of income that vary to compute an annual income. If there are bonuses or overtime that the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year will be used.

If there are bonuses or overtime that the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used. If, by averaging, an estimate can be made for those families whose income fluctuates from month to month; this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

F. MINIMUM INCOME

There is no minimum income requirement. Families who report zero-income may be required to undergo an interim recertification at periods determined by MPHA.

Families that report zero-income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

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

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, MPHA will calculate the income by using the

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following methodology and use the income figure which would result in a lower payment by the family:

- Exclude the income and deductions of the member if his/her income goes directly to the facility; or
- Include the income and deductions of the member if his/her income goes to a family member.

H. **REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]**

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contributions or gifts received by a family member on a regular basis will be considered a "regular" contribution or gift, and will be counted as family income and subject to verification in accordance with MPHA's Verification Procedures. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further definition.)

If the family's expenses exceed its known income, MPHA will inquire of the family regarding contributions and gifts.

MPHA may require the contributor to prove their ability to provide the household with a regular contribution by requesting income verification.

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I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, MPHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

MPHA will accept verification that the family is receiving an amount less than the award if:

MPHA receives verification from the agency responsible for enforcement or collection.

The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

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

J. LUMP-SUM RECEIPTS [24 CFR 5.609]

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

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

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

MPHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

MPHA will calculate prospectively if the family reported the payment within 30 calendar days and retroactively to date of receipt if the receipt was not reported within that time frame.

Prospective Calculation Methodology

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

The payment will be added to the annual income at the time of the interim.

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If amortizing the payment over one year will cause the family to pay more than 40% of the family's adjusted income (before the lump sum was added) for Total Tenant Payment, MPHA and family may enter into a Repayment Agreement, with the approval of either the Manager of Admissions or the Manager of Occupancy, for the balance of the amount over the 40% calculation. The beginning date for this Repayment Agreement will start as soon as the one-year is over.

Retroactive Calculation Methodology

MPHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

At MPHA's option, MPHA may enter into a Repayment Agreement with the family.

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

Attorney Fees

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

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

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

- While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.
- After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

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

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

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

MPHA's minimum threshold for counting assets disposed of for less than Fair Market value is \$5,000. If the total value of assets disposed of within a one-year period is less than \$100, they will not be considered an asset.

M. CHILD CARE EXPENSES [24 CFR 5.603]

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Childcare expenses for children under 13 may be deducted from annual income if they enable an adult to work or attend school, or to actively seek employment.

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

In cases where an adult family member is available to provide child care:

Childcare expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child.

Allowance of deductions for childcare expenses is based on the following guidelines:

Childcare to work: The maximum childcare expense allowed cannot exceed the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

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

Amount of Expense: MPHA will survey the local care providers in the community annually to establish a guideline. If the hourly rate materially exceeds the guideline, MPHA may calculate the allowance using the guideline.

N. MEDICAL EXPENSES [24 CFR 5.609(a)(2), 5.603]

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

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.

Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

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

Applicability

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

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

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P. **INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

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

- Fraud by a family member in connection with the welfare program; or
- Failure to participate in an economic self-sufficiency program; or
- Noncompliance with a work activities requirement.

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

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

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

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

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

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

Verification Before Denying a Request to Reduce Rent

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

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

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and

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- Subsequent changes in term or amount of reduction.

Cooperation Agreements

MPHA has a written cooperation agreement in place with the Butler County Department of Jobs and Family Services, the local welfare agency, which assists MPHA in obtaining the necessary information regarding welfare sanctions.

Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS **[24 CFR 982.153, 982.517]**

The same Utility Allowance Schedule is used for all tenant-based programs.

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

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

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

MPHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

On request from a family that includes a person with disabilities, and with proper medical documentation, MPHA will approve a utility allowance which is higher than the applicable amount on the utility allowance schedule. If a higher utility allowance is needed as a reasonable accommodation to make a unit usable by the family member with a disability, then the higher allowance will be permitted.

MPHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

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

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], MPHA will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant.

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R. **SCHOOL YEAR EMPLOYEES**

MPHA will calculate using 9 month average for verified school year employees. Tenant rent will remain the same all year, there will be no interim conducted for summer months. (This includes school bus drivers, clerical employees, and other employees on a 9 month work schedule).

SEASONAL EMPLOYEES

MPHA will annualize income using an average from all information provided to determine an affordable tenant rent for the entire year. No interim will be conducted for temporary time off work (i.e. bad weather, temporary work stoppage, sick days, etc.)

TEMPORARY EMPLOYMENT

MPHA will annualize income using an average from all information provided to determine an affordable tenant rent for the entire year. No interim will be conducted for temporary time off work (i.e not currently on assignment, between assignments, temporary layoff, etc.)

S. **INCOME FROM ASSETS**

MPHA will count the current balances of savings and average balance of checking accounts towards assets.

CHAPTER 9

REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

MPHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. MPHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of MPHA, or outside of MPHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with MPHA. This chapter defines the types of eligible housing, MPHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RTA).

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

Mover Appointments

Families currently participating in the HCVP Program who wish to move must attend a Mover's Appointment. The purpose of this briefing is to update families on changes in the program and to assist them in successfully moving with assistance. If eligible to move, the family will be issued a voucher to find a new unit.

MPHA will complete a criminal background check on all adult family members age 18 and over at the time a move is requested. MPHA will not consider any time period previously reviewed or prior to the family's admission determination. In addition, in conducting the criminal background check, MPHA will not consider a time period in excess of five years for the following:

- 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;

- Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of MPHA, including a MPHA employee or contractor, subcontractor or agent.

MPHA may deny assistance to move or terminate program assistance if any family member is engaged in criminal or drug related activity as described in 24 CFR 982.551, 982.552 or 982.553, or has engaged in other related program violations.

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Mover Packet [24 CFR 982.301(b)]

Documents and information provided in the packet for unit transfers will comply with all HUD requirements.

The family will be provided with the following information and materials:

- The term of the voucher, and MPHA's policy for requesting extensions or suspension of the voucher.

- Where the family may lease a unit.

- A blank Request for Tenancy Approval form.

- 30-day notice requirements for the landlord and for MPHA.

- Possible consequences of non-payment of water or other utility bills.

- A description of the method used to calculate the Housing Assistance Payment for a family, including:

 - How MPHA determines the payment standard for a family;

 - How MPHA determines total tenant payment for a family;

 - How MPHA determines the maximum allowable rent for an assisted unit; and

 - Information on the payment standard and utility allowance schedule.

The Request for Tenancy Approval (RTA)

The Request for Tenancy Approval (RTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Tenancy Approval in the form and manner required by MPHA.

The Request for Tenancy Approval must be signed by both the owner and voucher holder.

MPHA will not permit the family to submit more than one RTA at a time per household. MPHA will not permit the landlord to submit more than one RTA at a time per household or per unit.

Families currently assisted by the HCV program will not be allowed to submit a RTA prior to attending an appointment for unit transfer briefing.

MPHA will review the RTA for affordability and owner approval at the time of submittal. Once the RTA is approved, the unit will be listed for the initial inspection. If the RTA is not approved, a cancellation letter will be provided to both the family and owner listing the reason for cancellation.

MPHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are acceptable. The request will be approved if:

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The unit is an eligible type of housing

The unit is not currently in foreclosure or delinquent on real estate taxes without an approved repayment agreement with the Butler County Auditor and the City of Middletown Tax Department.

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The proposed lease complies with HUD and MPHA requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

Disapproval of RTA

If MPHA determines that the request cannot be approved for any reason, the owner and the family will be notified in writing. MPHA will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 15 calendar days to submit an approvable RTA from the date of disapproval.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]

MPHA will approve any of the following types of housing in the voucher program:

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

MPHA may not permit a voucher holder to lease a unit which is receiving project-based Housing Choice Voucher Program assistance or any duplicative rental subsidies.

C. LEASE SUBMITTAL AND REVIEW [24 CFR 982.308]

The family and owner must submit a standard form of lease used in the locality by the owner that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law. MPHA shall require a copy of the current lease at all times for each assisted unit.

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MPHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and state and local law. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the Request for Tenancy Approval.

The lease must specify:

- The names of the owner and tenant, and
- The address of the unit rented (including apartment number, if any), and
- The amount of the monthly rent to owner, and
- The utilities and appliances to be supplied by the owner, and
- The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be attached or included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that the owner may evict the family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal drug use by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or
- Any violent criminal activity on the premises by any other person under the tenant's control.

Chapter 9

The lease must provide that the owner may terminate tenancy if a tenant is:

- Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees.

Actions Required Before HAP Contract Begins

All of the following must always be completed before the beginning of the initial term of the HAP Contract for a unit:

MPHA has verified the taxes and water bills are not delinquent on the unit;

MPHA has verified that the owner of record is the one completing all forms. If there is a property management company or agent of the owner in place, MPHA has verified and received proper documentation;

MPHA has verified that there are no open work orders or requests from any governmental agency on the unit or structure;

MPHA has inspected the unit and has determined that the unit satisfies HQS;

MPHA has determined that the rent charged by the owner is reasonable;

The owner and the tenant have executed the lease, including the HUD prescribed tenancy addendum;

MPHA has approved leasing of the unit in accordance with program requirements;

When the gross rent exceeds the applicable payment standard for the family, MPHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

The total monthly rental amount to owner cannot exceed the contract rent amount approved by MPHA.

D. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

The owner is not required to, but may collect a security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge, subject to the limits of state and local law. In no case may the security deposit charged to an assisted tenant exceed that charged to an unassisted tenant.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

E. SEPARATE AGREEMENTS

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Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by MPHA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable, customary for the local rental market, do not violate Ohio Tenant/Landlord law, and are not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by MPHA. If agreements are entered into at a later date, they must be approved by MPHA and attached to the lease.

MPHA will not approve separate agreements for modifications to the unit for persons with disabilities because the modifications are critical to the use of the dwelling.

F. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

G. RENT LIMITATIONS [24 CFR 982.507]

MPHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market.

By accepting each monthly housing assistance payment from MPHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide MPHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by MPHA.

H. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

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In any of the programs, if the proposed gross rent is not reasonable, at the family's request, MPHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than 40% of the family's monthly-adjusted income, MPHA will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, MPHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, MPHA will continue processing the Request for Tenancy Approval.

If the owner does not agree on the rent after MPHA has tried and failed to negotiate a revised rent, MPHA will inform the family and owner that the unit is disapproved and will cancel the RTA.

I. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements and upon written request, MPHA will furnish prospective owners with the family's current address as shown in MPHA's records and, if known to MPHA, the name and address of the owner at the family's current and prior.

MPHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

MPHA will inform owners that it is the responsibility of the owner to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy. MPHA's policy on release of information to prospective owners allows information to be provided orally or in writing.

Only the assigned Housing Specialist or a manager may provide this information. MPHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners included in the briefing packet which is provided to the family.

MPHA will provide documented information regarding tenancy history for up to the past three years to prospective owners upon written request from the owner.

MPHA will provide the following information, based on documentation in its possession:

Eviction history;

Damage to rental units;

Other aspects of tenancy history, including criminal history for adult members of

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the household.

J. **OWNER DISAPPROVAL [24 CFR 982.306]**

See chapter on "Owner Disapproval and Restriction."

K. **CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]**

MPHA prepares and mails the Housing Assistance Contract, Property Owner Certification Form and Tenancy Addendum to the owner or designated agent for execution. The family and the owner will execute the Lease Agreement and Tenancy Addendum, and the owner or designated agent and MPHA will execute the HAP Contract and Property Owner Certification Form. The owner or designated agent will return all 4 documents to MPHA. If the documents submitted are unacceptable, a letter will be sent to the owner or designated agent with a specific reason for rejection.

Copies of the documents will be furnished to the parties who signed the respective documents. MPHA will retain a copy of all signed documents.

MPHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract and addendums are executed and a copy of the lease agreement is provided to MPHA.

The following MPHA representative(s) is/are authorized to execute a contract on behalf of MPHA: the Program Director, the Program Manager or designee.

Owners must provide either an employer identification number or a social security number.

The owner must provide a home telephone number and/or business number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. Either the Program Director or the Program Manager may grant waivers of this restriction in writing as a reasonable accommodation for a family member who is a person with a disability, subject to verification that such accommodation is needed.

L. **PROPERTY MANAGEMENT AND LICENSEES**

As a Public Housing Agency, MPHA must comply with Ohio state laws. Ohio Revised Code 4735.01 regulates who is permitted, for a fee, to operate, manage or rent any building or portion of a building to the public as tenants.

For all new contracts effective 7/1/09 and thereafter, MPHA may review property management information to ensure that all management companies are properly licensed by the State of Ohio Department of Commerce's Division of Real Estate.

A regular employee of a property owner may engage in property management

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without a real estate license. A regular employee is defined under the following conditions:

The employee's income is reported on a W-2, not on a Form 1099

The employer pays all payroll taxes

The employer pays unemployment and workers' compensation insurance

The employer schedules the hours of work for the employee

The above conditions allow an individual to engage in property management for a property owner without a real estate license. Otherwise, the individual will be in violation of license law and the State of Ohio Department of Commerce Division of Real Estate may initiate disciplinary action under O.R.C. 4735.052.

CHAPTER 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP Contract.

MPHA will inspect each unit under contract at least annually. MPHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain MPHA's required standards and to assure consistency in MPHA's program. This chapter describes MPHA's procedures for performing HQS and other types of inspections, and MPHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and MPHA requirements. (See additions to HQS).

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

All units must comply with all orders issued by any local governing body to enforce such local governing body's local building codes. In cases where the local governing body has issued any order preventing occupancy of the unit, the unit shall be deemed not to meet the HQS, and the unit shall be terminated from MPHA's program.

Efforts will be made at all times to encourage owners to provide housing that exceeds HQS minimum standards. MPHA will not promote any additional acceptability criteria which are likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

For purposes of inspections, the term "HQS" refers to the Housing Quality Standards inspection.

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the inspector will notify the owner to have the utilities turned on. After the owner notifies MPHA that the utilities have been turned on, the inspector will schedule an inspection.

If the tenant is responsible for supplying any utilities, the utilities must be in the name of an adult member of the household. If the tenant is responsible for supplying the stove and/or the refrigerator, MPHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS criteria. MPHA will conduct a re-inspection.

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There are seven types of inspections MPHA will perform:

1. Initial/Move-in Inspection
2. Annual Inspection
3. Complaint Inspection
4. Emergency Inspection
5. Quality Control Inspection
6. Move-Out/Vacate Inspection
7. Special Inspection

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

Timely Initial HQS Inspection

MPHA will inspect the unit to determine whether the unit satisfies HQS. To the extent practicable, the inspection and determination will be made within fifteen days after the family and the owner submit a request for approval of the tenancy.

MPHA will make every reasonable effort to conduct initial HQS inspections as expeditiously as possible.

The Initial Inspection will be conducted to:

- Determine if the unit and property meet HQS.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify MPHA once repairs are completed.

On an initial inspection, the owner will be given up to 15 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed no more than two inspections for repair work to be completed.

If the time period given by the inspector to correct the repairs including approved extensions has elapsed, or the maximum number of failed inspections has occurred, the family must submit a new RTA.

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

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MPHA conducts an inspection in accordance with Housing Quality Standards at least annually, as required by SEMAP. Special inspections may be scheduled more frequently.

HQS deficiencies which cause a unit to fail must be corrected by the owner unless it is a fail for which the tenant is responsible.

The owner and the family must allow MPHA to inspect the unit at reasonable times with reasonable notice, during the hours between 8:00AM and 6:00PM. It is the tenant's responsibility to ensure that the unit can be accessed for the inspection. The owner may be present for the inspection, or can arrange with the tenant to give the inspector the required access at the time of the scheduled inspection.

MPHA will notify the family and owner in writing at least seven calendar days prior to the inspection.

Inspection: The family and owner are notified of the date and time of the inspection appointment by mail. If neither the family nor the owner is able to be present, the tenant is responsible for rescheduling the appointment at least 48 hours prior to the scheduled inspection time.

If the tenant does not contact MPHA to reschedule the inspection, or if the tenant misses two inspection appointments, MPHA may terminate assistance to the family.

Re-inspection: The family and/or owner are notified of the inspection appointment by mail. If neither the owner nor the family is present for the re-inspection appointment, a notification of the missed inspection will be left at the unit. This will be considered a failed inspection. Upon request, MPHA will schedule another inspection.

A pattern of repeated non-compliance with the inspection process may result in termination of an owner and/or tenant. Non-compliance includes failure to make the unit accessible for a scheduled inspection, failure to make timely repairs, and failure to comply with applicable HUD regulations and requirements of this Plan.

If the family is responsible for a breach of HQS as defined in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised by MPHA of their responsibility to correct and given a timeframe for completion of repairs.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notification. (See "Emergency Repair Items")

For non-emergency items, repairs must be made within 30 days.

For major repairs, MPHA may approve an extension beyond 30 days.

D. COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies MPHA that the unit does not meet Housing Quality Standards, MPHA will conduct an inspection.

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MPHA may also conduct an investigative inspection based on complaints from neighbors, public officials, or others, provided such complaints include credible allegations that an HQS violation may exist.

MPHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs within a reasonable time.

E. EMERGENCY INSPECTIONS

Emergency inspections are complaint inspections conducted when the complaint involves an exigent situation that endangers the family's health or safety (see "Emergency Repair Items"). Emergency Repair Items must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notification.

F. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by the Manager of Inspections or their designee on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

G. MOVE-OUT/VACATE INSPECTIONS

This inspection type is performed on request by Owners at owner's expense in order to validate damage done by tenant.

H. SPECIAL INSPECTIONS

This inspection type is performed to follow-up on any previously passed inconclusive inspection items or weather related repair extensions in order verify their completion.

I. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401(a)]

MPHA adheres to the acceptability criteria in the program regulations with the additions described below.

Additions

Windows:

- If window security bars or security screens are present on emergency exit window, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

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Floors:

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state (no plywood).

Smoke Detectors:

- Owners are responsible for providing working smoke detectors. Tenants are responsible for replacing old batteries for battery powered units.

Modifications

Modifications or adaptations made to a unit to accommodate a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by both the tenant and the owner. MPHA will allow execution of the HAP Contract if the unit meets all other requirements and the modifications do not affect the livability of the unit.

J. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whichever is responsible) within 24 hours of notice by the inspector:

Fire in unit (where unit is uninhabitable)

Inoperable smoke detectors

Natural gas leak

No heat when outside temperature is below 40°

No electric

Broken or missing outlet/light switch cover plates

Main sewage line stoppage

No water

The inspector will issue an Emergency Self-Certification form. This form certifies that the emergency items have been repaired, must be filled out completely, must be signed by both the owner and the tenant, and must be returned to the inspector within 24 hours. All emergency inspections will be respected by MPHA. If the Self-Certification form is returned and subsequent inspection indicates that the repairs were not completed, MPHA may terminate the HAP Contract.

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If the emergency repair items are not corrected in the time period required by MPHA, and the owner is responsible, the Housing Assistance Payment will be abated and the HAP Contract will be terminated.

If the emergency repair items are not corrected in the time period required by MPHA, and it is an HQS breach which is a family obligation, MPHA will terminate the assistance to the family.

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

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by MPHA, the assistance payment to the owner will be abated.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective the first day of the month after the repair deadline. For non-emergency repairs, the owner is given up to 30 calendar days.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS.

MPHA may grant a time extension for making repairs in lieu of abatement in the following cases:

Due to the complexity or extensive nature of repairs, it is not possible to have them completed by the initial due date.

There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.

The repairs must be delayed due to climate conditions.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by MPHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

L. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

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- Tenant-paid utilities not in service or not established in the name of an adult household member.
- Failure to provide or maintain family-supplied appliances.
- Damage to the unit or premises caused by a household member or guest that exceeds normal wear and tear. "Normal wear and tear" is defined as items that cannot be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. MPHA may terminate the family's assistance on that basis.

M. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If non-emergency violations of HQS are determined to be the responsibility of the family, MPHA will normally require the family make any repair(s) or corrections within 30 calendar days. Utility shut-offs must be corrected within 24 hours. If the repair(s) or correction(s) are not made within the required time period, MPHA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the Manager of Inspectors or his designee. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

CHAPTER 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Housing Choice Voucher Program Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the "merger date". These amendments complete the merging of the Housing Choice Voucher Program Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Housing Choice Voucher Program participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

MPHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is MPHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains MPHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

MPHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, MPHA begins processing payments to the owner. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Payments are disbursed by MPHA's Finance Department to the owner each month. All

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Housing Assistance Payments will be directly deposited to the owner's account. All Housing Assistance Payments (HAP) will be issued via direct deposit.

Payments are normally disbursed to the owners on the 1st and the 15th of each month. Exceptions may be made with the approval of the Director of Rental Assistance Programs or Department Managers.

When a payee reports that a payment has not been received, MPHA will investigate the report and reissue the payment if warranted.

Annual Rent Adjustments

An owner may request a rent adjustment once every twelve months within 120 days of the family's annual recertification date. Rent adjustment requests for mid-month move-ins (e.g., September 15) will be granted no earlier than a year from the first of the month following move-in (e.g., October 1). Rent adjustments will be effective the day of the family's annual recertification date. Rent adjustment requests must provide a minimum 60-day notice to the family, and a copy must be provided to MPHA. MPHA will provide a 30-day notice to the family if the adjustment increases the tenant's rental portion. Any requested adjustment in rent will be subject to rent reasonableness requirements. See 24 CFR 982.503. Only one rent adjustment request will be processed in a 12-month period. If the rent assessment is lower than what the owner is currently receiving, MPHA will adjust the rent to that amount in accordance with HUD regulations.

In instances where the landlord alleges to have submitted a rent adjustment request that is not in possession of the Agency, the burden of proof will lie with the landlord. Acceptable forms of proof include, but are not limited to: a fax confirmation sheet, a date-stamped receipt from MPHA or a return receipt from the post office.

Excess Payments

The total of rent paid by the tenant plus MPHA's Housing Assistant Payment to the owner may not be more than the total approved rent. The owner may not demand or accept any rent payment from the tenant in excess of this total approved rent and the owner must immediately return any excess payment to the tenant.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to MPHA" chapter of this Administrative Plan.

If MPHA determines that the owner is not entitled to a housing assistance payment or any part of it, MPHA will deduct the amount of the overpayment from any amounts due the owner (including amounts due under any other HCV/Section 8 assistance contract).

Late Payments to Owners

MPHA may pay a \$25 late fee to the owner for Housing Assistance Payments that are not made to the owner by the 5th and 20th days of the month, if the delay is caused by MPHA's failure to act. A late payment fee must be requested by the owner. The date

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the bank shows as the deposit date will be the official date of record and will be the determining factor in cases involving late payment penalties.

MPHA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond MPHA's control, such as a delay in the receipt of program funds from HUD. MPHA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

MPHA will determine and document on a case-by-case basis that the approved rent for a unit is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

MPHA will not approve a lease until MPHA determines that the initial rent to owner is a reasonable rent. MPHA must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five 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 one year before the contract anniversary.

MPHA must redetermine rent reasonableness if directed by HUD and based on a need identified by MPHA's auditing system. MPHA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by MPHA.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give MPHA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from local newspapers, Realtors, apartment guides, professional associations, inquiries from owners, market surveys, and other available sources.

Rent Reasonableness Methodology

MPHA uses an objective system to calculate the reasonable rent for proposed program units. The rent reasonableness database is compiled using information gathered on unassisted rental units throughout City of Middletown. An analysis of the rental comparable database is used to determine the most significant indicators of rental value and to derive a formula to calculate the reasonable rent.

MPHA's Rent Reasonableness determinations are not subject to appeal. MPHA will review discrepancies regarding unit amenities or conditions to ensure the rent reasonable assessment is accurate.

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MPHA will update all information on an “as needed” basis, dependent upon changing market conditions.

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

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations, and at MPHA's discretion, the Voucher Payment Standard amount is set by MPHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. MPHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, MPHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

MPHA will establish a single voucher payment standard amount for each FMR area in MPHA jurisdiction. For each FMR area, MPHA will establish payment standard amounts for each "unit size". MPHA may have a higher payment standard within MPHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

MPHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. MPHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. MPHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

MPHA may review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30 percent of their annual adjusted income for rent.

If it is determined that particular unit sizes in MPHA's jurisdiction have payment standard amounts that are creating unacceptable rent burdens for families, MPHA may modify its payment standards for those particular unit sizes within the basic range (90%-110%) without further approval of the MPHA Board.

MPHA may increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in MPHA's jurisdiction are paying.

MPHA may establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction if it determines that a higher payment standard is

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needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

Lowering of the Payment Standard

MPHA's Payment Standards may be lowered:

- To maintain the payment standards within the established ranges of HUD's published FMR's;
- To more accurately reflect current area market rents; or
- To achieve maximum participant utilization based on HUD's newest budget based program funding formula.

In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, MPHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, MPHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by MPHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, MPHA must use the appropriate payment standard amount established by MPHA for the exception area in accordance with regulation at 24 CFR 982.503(c).

MPHA has established a payment standard amount of 110% for specific low poverty census tracts. MPHA will monitor these census tracts periodically to ensure that they remain low poverty areas. MPHA will change the payment standard for these areas should they no longer qualify as low poverty areas as determined by MPHA.

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RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, MPHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. MPHA will run EIV reports for all annual and interim certifications. MPHA will compare information reported on the EIV report to income information reported by the family. If EIV information is disputed by the family, MPHA will request third-party verification. All annual activities will be coordinated in accordance with HUD regulations.

It is a HUD requirement that families report all changes in household composition. This Chapter defines MPHA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are two activities MPHA must conduct on an annual basis.

- Recertification of income and family composition
- HQS inspection

MPHA produces a monthly listing of units under contract to ensure that timely reviews of housing quality and factors related to total tenant payment/family share can be made.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections" chapter.

Rent adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually.

Moves Between Reexaminations

When families move to another dwelling unit, MPHA will process a transfer certification, "Other Change of Unit" and will not change the family's recertification anniversary date. If the family is due for an annual, the transfer

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will be processed as an annual certification. Families will not be allowed to randomly add or remove non-traditional sources of income (i.e., regular contributions) in order to qualify for a unit (also known as “income shopping”).

Reexamination Notice to the Family

MPHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 90 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, MPHA will provide the notice in an accessible format. MPHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability. All adult household members age 18 and over are required to attend the scheduled recertification appointment.

Income limits are not used as a test for continued eligibility at recertification.

Procedure

MPHA's procedure for conducting annual recertifications will be:

- Schedule the date and time of appointments and mail a notification to the family and owner. If the family fails to attend, they will be scheduled during make-up day. If the family misses both appointments, they must call their Housing Specialist within 5 days to reschedule or face termination. MPHA may elect to have a family recertify via mail-in recertification.

Completion of Annual Recertification

MPHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Persons with Disabilities

Persons with disabilities who are unable to come to MPHA's office will be granted an accommodation by conducting the interview at the person's home, by mail, or home visit, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]

MPHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

MPHA will allow the family to complete the recertification form.

MPHA will require the family to complete a Personal Declaration Form prior to all recertification interviews.

Requirements to Attend

The following family members will be required to attend the recertification interview:

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- The head of household and spouse or co-head
- All adult household members age 18 and over

If any adult household member is unable to attend the interview, the appointment will be rescheduled.

Failure to Respond to Notification to Recertify

MPHA will send written notification of the recertification appointment or the “mail in” due date.

If the family does not appear for the recertification interview or fails to return the “mail in” recertification packet, and has not rescheduled or made prior arrangements with MPHA, MPHA will reschedule a second appointment for the interview. If the family is a “mail in” recertification, a notice will be mailed to the family with an extended due date to return the “mail in” packet.

If the family fails to appear for the second appointment or fails to return the “mail in” packet by the extended due date, and has not rescheduled or made prior arrangements within 5 days, MPHA will:

- Send the family notice of termination and offer them an informal hearing.

Exceptions to these policies may be made by the Housing Specialist if the family is able to document an emergency situation that prevented them from completing the recertification or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, MPHA will include instructions for the family to bring the following:

- Documentation of all assets
- Documentation of all household income
- Documentation of any deductions/allowances
- Picture ID for every adult household member
- MPHA's HCV Program's Recertification/Transfer Application

Criminal Background Checks for All Adult Members of the Household

Every Adult household member will be required to sign a release to allow MPHA to conduct an annual criminal background check at recertification. MPHA may also retrieve information available through public records to ascertain criminal background

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information as needed. Any unsatisfactory criminal background check, as determined by MPHA, can result in program termination. A history of violent criminal activity, drug-related criminal activity, or if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program, would be considered unsatisfactory.

Verification of Tenant-Paid Utilities

MPHA will verify at the annual recertification appointment that tenant-paid utilities are in the name of an adult household member within the family.

Verification of Information

MPHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 120 days old.

Tenant Rent Increases

If a tenant rent increases, a 30-day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the 30-day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by MPHA.

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to MPHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain MPHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. MPHA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

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The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Changes in income or family composition must be reported in writing within 30 calendar days of the change.

- No interim will be conducted until all requested information is verified.
- No interim will be conducted if the decrease in income is considered temporary or in effect for less than 60 days.
- Income increases may be deferred until the next annual recertification except where households were previously reporting zero income.

When clients hand delivers verification documents, a receipt will be provided to them identifying the information submitted.

D. RENT ADJUSTMENTS

Program participants are required to report all changes in family composition or income within 30 calendar days of the occurrence. Changes must be reported in writing using the Report of Change Form available in the HCV department. Failure to report within 30 calendar days may result in a retroactive rent increase, but not a retroactive credit or rent reduction. In order to qualify for a rent reduction for the following month, clients must report income decreases by the 15th of the month proceeding the effective month of the reduction to allow for MPHA to verify the income change.

MPHA will process interim changes in rent in accordance with the chart below:

TYPE OF INCOME CHANGE	<u>MPHA ACTION</u>
(a) Decrease in income for any reason, <u>except</u> for a decrease that lasts less than 60 days.	• MPHA will process an interim reduction in rent if the income decrease will last more than 60 days . Once verified, the decrease will be retroactive to the effective date.
(b) Decrease in TANF benefits due to either non-compliance with the self-sufficiency program or program fraud.	• MPHA will not decrease rent and will use the imputed welfare income for purposes of rent determination until such time there is a reported replacement income.

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<p>(c) Combined household increases averaging a gross of \$100 or less per month between annual recertifications.</p>	<ul style="list-style-type: none"> • MPHA will defer the increase to the next regular recertification. • When combined income increases average in excess of \$100 per month, rent will increase the first day of the second month based on all increases.
<p>(d) Increase in income because another person with income (from any source) joins the household.</p>	<ul style="list-style-type: none"> • MPHA will increase the tenant's rental portion on the first day of the second month following the approval of the addition to the household and verification of the person's income.
<p>(e) Decrease in income lasting a minimum of 30 days reported by the 15th of the month</p>	<ul style="list-style-type: none"> ▪ MPHA will decrease the rent effective the 1st of the month following the change. Decreases reported after the 15th will be effective the 1st of the month following the report of change. However, reports after the 15th of the month will be handled with a retroactive credit upon verification.
<p>(f) Lump-sum payments from a delay of periodic payments. (Except Social Security)</p>	<ul style="list-style-type: none"> • MPHA will increase the tenant's rental portion retroactively to the first day of the second month from the effective start date of the periodic payment.
<p>(g) Expiration of any mandated exclusion(s) period (Federal and/or MPHA).</p>	<ul style="list-style-type: none"> • MPHA will increase the tenant's rental portion either prospectively or retroactively to the date of the expiration of the exclusion.

Complete verification of the circumstances applicable to rent adjustments must be documented and approved by an authorized representative of MPHA.

Exceptions to Interim Adjustments: MPHA will compute the income of persons who are self-employed by using historical data to anticipate annual income. MPHA will process an interim adjustment when it is determined that the change in self-employment income is permanent and not sporadic.

Effective Date of Adjustments

Residents will be notified in writing of any rent adjustment. The notice will state the effective date of the adjustment.

Income decreases reported by the 15th of the month lasting at least 30 days and verified before the end-of-month accounting cut-off date will be effective the first of the following month. Income decreases reported after the 15th of the month will be verified and

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effective the first of the month following the report of the change. However, reports after the 15th will be handled with a retroactive credit upon verification.

Rent increases (except those due to misrepresentation, non-compliance or untimely reporting) require that MPHA give the participant 30 days advance notice of the increase. Rent increases become effective the first day of the second month following timely reporting. If a tenant submits a Mutual Termination Notice and the effective date is less than 30 days from the transfer date, the 30-day notice requirement for the rent increase for the new unit is waived.

Zero-income Families/Minimum Rent Payers

Persons claiming zero-income or paying minimum rent will also be asked to complete a family expense form at the time of recertification. The form will ask residents to estimate how much they spend on: telephone, cable TV, food, clothing, transportation, health care, child care, debts, household items, etc. Residents will then be asked how they pay for these items.

MPHA Errors

If MPHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively for increases. Families will be given decreases, when applicable; retroactive to when the decrease for the change would have been effective if calculated correctly.

The Family is responsible for reviewing MPHA's determination of household income, assets and expenses used in the calculation of rent, and for bringing any noted errors or omissions to MPHA's attention in writing within 10 days of receipt of the Addendum.

Failure to Report Accurate Information

If it is found the resident has misrepresented or failed to report to their Housing Specialist the facts upon which his/her rent is based, including errors or omissions by MPHA, so that the rent being paid is less than what should have been charged, then the increase in rent will be made retroactive. Failure to report accurate information is also grounds for termination in accordance with MPHA's Administrative Plan.

E. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

In the following circumstances, MPHA may conduct the interim recertification by mail:

Changes that will not result in a change in tenant rent or voucher size.

Changes in income that is normal for the family, such as seasonal employment.

As a reasonable accommodation when requested. (See "Statement of Policies and Objectives" chapter)

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Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly scheduled annual recertifications.

F. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

MPHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," which is a reduction in benefits by the welfare agency specifically because of:

Fraud in connection with the welfare program, or

Noncompliance with a welfare agency's requirement to participate in an economic self-sufficiency program.

Participant's voluntary termination of benefits because they were placed under a sanction for fraud or noncompliance with a welfare agency's requirement to participate in an economic self-sufficiency program

However, MPHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits, or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or

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

Definition of Covered Family

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "Imputed Welfare Income"

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

The amount of imputed welfare income is determined by MPHA, based on written information supplied to MPHA by the welfare agency, including:

The amount of the benefit reduction

The term of the benefit reduction

The reason for the reduction

Subsequent changes in the term or amount of the benefit reduction.

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The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Manager of Admissions or Manager of Occupancy will review the calculation for accuracy. If the imputed welfare income amount is correct, MPHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with MPHA's determination.

Verification Before Denying a Request to Reduce Rent

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

MPHA will rely on the welfare agency's written notice to MPHA regarding welfare sanctions.

Cooperation Agreements [24 CFR 5.613]

MPHA will execute a Cooperation Agreement with the local welfare agency under which the welfare agency agrees:

- To target public assistance benefits and services to participants in MPHA's Self-Sufficiency program;
- To provide written verification to MPHA concerning welfare benefits for applicant and participant families, and specified reduction in welfare benefits for a family member, listing amount of reduction, reason for reduction, term of reduction, and subsequent redetermination.

MPHA will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

MPHA will execute a Cooperation Agreement with the local welfare agency to ensure timely and accurate verification of noncompliance.

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MPHA has taken a proactive approach to culminating an effective working relationship between MPHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Housing Choice Voucher Program tenant-based assistance families.

MPHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Housing Choice Voucher Program tenant-based assistance families.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and MPHA denies the family's request to modify the amount, MPHA will provide the tenant with a notice of denial, which will include:

An explanation for MPHA's determination of the amount of imputed welfare income.

A statement that the tenant may request an informal hearing.

A statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be MPHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

G. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH 98-6]

The HUD Form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by MPHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

H. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) **[24 CFR 982.516(c)]**

Standard for Timely Reporting of Changes

MPHA requires that families report interim changes to MPHA within 30 calendar days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within 30 calendar days of the change.

An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within 30 calendar days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

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Procedures when the Change is Reported in a Timely Manner

MPHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent will occur effective the 1st of the month following the change provided the change is reported before the 15th day of the month. Decreases reported after the 15th day of the month will be effective the 1st of the month following the report of change. Reports received after the 15th of the month will be handled with a retroactive credit upon verification. However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

The change may be implemented based on documentation provided by the family, pending third-party written verification.

Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

- *Increase in Tenant Rent* will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement.

Procedures when the Change is Not Processed by MPHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by MPHA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by MPHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

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I. **FAMILY/HOUSEHOLD COMPOSITION CHANGES [24 CFR 982.516(c)]**

With the exception of children who join the subsidized household as a result of birth, adoption or court awarded custody; a family must request MPHA approval to add a new household member. When any new member is added, MPHA must conduct a reexamination to determine any new income or deductions associated with the additional member(s), and to make appropriate adjustments in the family share of the rent and the HAP payment.

MPHA POLICY

Head of household must submit written request (form provided by MPHA) to add additional household members.

Each proposed adult to be added must complete a personal declaration which includes a consent for background screening and consent for release of information.

All added household members must provide birth certificate, SSN, and sign a Citizen Declaration Form. Adults must provide photo ID.

Household additions are at the discretion of MPHA. In cases where the addition of household member(s) would increase the existing subsidy size, the added member(s) can only be a minor, a person with a disability or elderly adult with no other means of obtaining affordable and safe housing. The family does not have a right for an informal hearing if MPHA does not approve the addition of a household member.

Adding adults to the subsidized household does not provide them with any rights to the Housing Choice Voucher and they will not be considered a remaining member of a participant family.

MPHA may reconsider rights to the voucher if the remaining adult member is a spouse or significant other.

Removed adults may not be added back in to the household. Removed minors may be added back in if the Head of household can provide legal documentation proving custody.

J. **CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]**

Under the Noncitizens Rule, "mixed" families are defined as families that include at least one U.S. citizen or eligible immigrant and one or more ineligible immigrants.

"Mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

Either the head of household, spouse, or co-head is a U.S. citizen or has eligible immigrant status; and

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All members of the family other than the head, the spouse, parents of the head and the spouse, and children of the head or spouse are either citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

k. **MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, MPHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

CHAPTER 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within MPHA's jurisdiction, or to a unit outside of MPHA's jurisdiction under portability procedures. The regulations also allow MPHA the discretion to develop policies which define any limitations or restrictions on moves. This chapter defines the procedures for moves both within and outside of MPHA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because MPHA has terminated the HAP Contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family, or there is a threat or risk to the personal safety of a household member.

The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move before attending a Mover's Briefing.

Families will not be permitted to move during the initial year of assisted occupancy.

Families will not be permitted to transfer to a new unit more than once in a 12-month period. The MPHA Program Director or Program Manager may make exceptions to this restriction if there is a compelling reason for the move.

MPHA will deny permission to move if there is insufficient funding for continued assistance.

After initial lease up, families will not be able to move out of MPHA's jurisdiction under portability rules during the initial 12 months of assisted occupancy.

MPHA may deny permission to move if:

The family has violated a family obligation.

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The family owes MPHA or another PHA money.

The family is currently under eviction or has received a notice to terminate tenancy from their current landlord for a lease violation.

Proper notification was not provided to current landlord and/or MPHA.

The family is under termination by MPHA for a program violation.

Either the Program Director or the Program Manager may make exceptions to these restrictions if there is a compelling reason for the move. The family will be entitled to a hearing if a request to move is denied by MPHA.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has been recertified within the last 12 months, MPHA will issue the voucher to move after the attendance of the Mover's Briefing by the family.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and MPHA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to MPHA simultaneously. If the number of days of notice is not specified in the lease, MPHA requires 30 day notice be provided to the owner. The contract will terminate the last day of the month of the notice to allow owners a full month's notice of the termination.

Mutual Termination

Requests for Mutual Termination require owner certification of the reason for the Request, which must not be tenant non-compliance with the lease or any non-compliance with program rules and/or regulations. This certification may be verified by the use of public records.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

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Portability applies to families moving out of or into MPHA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside MPHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of MPHA's jurisdiction, the request must specify the area to which the family wants to move.

If there is more than one PHA in the area in which the family has selected a unit, MPHA will choose the receiving PHA.

Restrictions on Portability

Applicants

If neither, the head, spouse, or co-head had a legal residence in MPHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless MPHA approves such move.

For a porting family that was not already receiving assistance in MPHA's tenant-based program, MPHA must determine whether the family is eligible for admission under the receiving PHA's program.

Participants

MPHA will not permit families to exercise portability:

- If the family is in violation of a family obligation.
- If the family owes money to MPHA.
- If the family has moved out of its assisted unit in violation of the lease.
- If the family is currently under eviction or has received a notice to terminate tenancy from their current landlord for a lease violation.
- If the family is under termination by MPHA for a program violation.

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F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

MPHA will accept a family with a valid voucher from another jurisdiction and will either administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by MPHA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for tenancy approval for an eligible unit to MPHA during the term of the MPHA voucher. MPHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in MPHA's jurisdiction, they must contact the initial PHA to request an extension.

MPHA may absorb incoming portable families provided there is funding available.

When MPHA does not absorb the incoming voucher, it will administer the initial PHA's voucher and MPHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

MPHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Housing Choice Voucher tenant-based program.

MPHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, MPHA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving PHA, MPHA will conduct a recertification interview but only verify missing information and information that is more than 120 days old. A change in the family's circumstances may also require updated verifications.

If MPHA conducts a recertification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in MPHA's jurisdiction, MPHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Tenancy Approval

A briefing will be mandatory for all porting families new to the voucher program.

When the family submits a Request for Tenancy Approval, it will be processed using MPHA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within thirty calendar days by MPHA.

If the family leases up successfully, MPHA will notify the initial PHA within ten calendar days, and the billing process will commence.

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MPHA will notify the initial PHA if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of the voucher.

If MPHA denies assistance to the family, MPHA will notify the family and the initial PHA within ten calendar days. The family must request an informal hearing in writing within ten calendar days.

MPHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside MPHA's jurisdiction under continued portability.

Regular Program Functions

MPHA will perform all program functions applicable to the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;
- Annual inspection of the unit; and
- Interim examinations when requested or deemed necessary by MPHA

Terminations

MPHA will notify the initial PHA in writing of any termination of assistance within ten business days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by MPHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies MPHA that the family is in arrears or the family has refused to sign a payment agreement, MPHA will terminate assistance to the family.

Required Documents

MPHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

Billing Procedures

MPHA will bill the initial PHA monthly for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims will be monthly unless requested otherwise by the initial PHA.

MPHA will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased as of the first day of the month.

MPHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify MPHA of changes in the administrative fee amount to be billed.

CHAPTER 14

CONTRACT TERMINATIONS

[24 CFR 982.311; 982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) contract is the contract between the owner and MPHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by MPHA and the owner, and the policies and procedures for such terminations.

A. **CONTRACT TERMINATION [24 CFR 982.311]**

The term of the HAP Contract is the same as the term of the lease. The contract between the owner and MPHA may be terminated by MPHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by MPHA to the owner after the month in which the contract is terminated. The owner must reimburse MPHA for any subsidies paid by MPHA for any period after the contract termination date.

Contract Termination Due to Moves From the Unit By The Participant

If the family moves out of the unit, MPHA will not make any housing assistance payments to the owner for any month after the month that the family moves out.

Contract Termination Due to Death of Participant Head-of-Household

Death of the participant head-of-household will be treated as a move from the unit and a contract termination. If there are residual members of the participant household remaining on the premises, MPHA will assess their eligibility for continued assistance. Upon the death of the participant head-of-household, the housing assistance payments to the owner will stop unless MPHA determines that the residual household members are eligible for assistance.

Occupancy of Unit After Termination of the Housing Choice Voucher Assistance

If the family continues to occupy the unit after the Housing Choice Voucher Program contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from MPHA for vacancy loss under the provisions of certificate HAP Contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. **TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]**

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Family termination of the lease must be in accordance with the terms of the lease.

C. **TERMINATION OF TENANCY BY THE OWNER: EVICTIONS** **[24 CFR 982.314(c)(2)]**

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations.

During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of Federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises; or

Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do (see 982.310)

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity:

Regardless of arrest or conviction

Without satisfying the standard of proof used for a criminal conviction

Termination of Tenancy Decisions

If the law and regulation permit the owner to take an action but don't require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

The seriousness of the offense

The effect on the community

The extent of participation by household members

The effect on uninvolved household members

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The extent to which leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action

The effect on the integrity of the program

Exclusion of Culpable Household Member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit with prior MPHA approval.

Consideration of Rehabilitation

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

Is no longer participating

Has successfully completed a supervised drug or alcohol rehab program

Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above).

Actions of termination by the owner must be consistent with the fair housing and equal opportunity regulations as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. This notice must be copied to MPHA. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under State or local law to commence an eviction action.

MPHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for MPHA's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, MPHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

MPHA will continue housing assistance payments until the family moves or is evicted from the unit.

MPHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from MPHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

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If an eviction is not due to a serious or repeated violation of the lease, and if MPHA has no other grounds for termination of assistance, MPHA may issue a new voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY MPHA [24 CFR 982.404(a), 982.452, 982.453, 982.454, 982.552(a)(3)]

The term of the HAP Contract ends when the lease terminates, when MPHA terminates program assistance for the family, or when the owner has breached the HAP Contract. (See "Owner Disapproval and Restriction" chapter)

MPHA may also terminate the contract if:

MPHA terminates assistance to the family.

The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

Funding is no longer available under the ACC.

If the property owner or his representative has engaged in or threatened abusive or violent behavior toward a MPHA voucher holder or a member of the household.

If the property owner or his representative has engaged in or threatened abusive or violent behavior toward MPHA personnel.

"Abusive or violent behavior towards MPHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is used to insult, intimidate, or threaten may be cause for termination or denial.

Actual physical abuse or violence will always be cause for termination.

If the family has requested a reasonable accommodation that the owner/landlord is unable to provide the family.

If the family has requested a transfer under the federal Violence Against Women Act (VAWA).

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

MPHA reserves the right to suspend or terminate a contract based on an owner's current or past unsatisfactory performance with the HCV program.

In the event the contract termination results from multiple severe breaches of the HAP Contract by the landlord, MPHA may pay a \$250 relocation benefit to the family in order to compensate for any inconvenience if the tenant relocates and remains in the program.

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Notice of Termination

When MPHA terminates the HAP Contract under the violation of HQS space standards, MPHA will provide the owner and family written notice of termination of the contract, and the HAP Contract terminates at the end of the calendar month that follows the calendar month in which MPHA gives such notice to the owner.

CHAPTER 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION

MPHA may deny or terminate assistance for a family because of the family's action or failure to act in accordance with the terms of the Administrative Plan, program rules or the lease agreement between the HCV landlord and tenant. MPHA will provide families with a written description of the family obligations under the program, the grounds under which MPHA can deny or terminate assistance, and MPHA's informal hearing procedures. This chapter describes when MPHA is required to deny or terminate assistance and MPHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP Contract.

A. GROUND FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552, 982.553]

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denying placement on MPHA's waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP Contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP Contract
- Refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination [24 CFR 982.54(d), 982.552(b), 982.553(a), 982.553(b)]

MPHA may terminate assistance for participants if the family is under contract and 180 days (or 12 months, depending on the HAP Contract used) have elapsed since MPHA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

MPHA will permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

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MPHA will deny admission to the program for applicants, and terminate assistance for program participants if MPHA determines that any household member is currently engaging in illegal use of a drug. See Section B of the chapter for MPHA's established standards.

MPHA will deny admission to the program for applicants and terminate assistance for program participants if MPHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for MPHA's established standards.

MPHA will deny admission to an applicant and terminate assistance for program participants if MPHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

MPHA will terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

MPHA will deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

MPHA will deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

MPHA will deny program assistance for an applicant or terminate program assistance for a participant for any of the following reasons:

If any family member violates any family obligation under the program as listed in Section C of this chapter [24 CFR 982.551].

If any family member has violated the family obligation under 24 CFR 982.551 and .552 not to engage in any drug-related criminal activity.

If any family member has violated the family obligation under 24 CFR 982.551 and .552 not to engage in any violent criminal activity.

If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. Unsatisfactory non-criminal behavior for any member of the household.

If any member of the family has been evicted from federally assisted housing in the last 12 months.

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

If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

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If the family is not in good standing under another MPHA housing program.

If the family currently owes rent or other amounts to MPHA or to another PHA in connection with Housing Choice Voucher Program or public housing assistance under the 1937 Act.

MPHA at its discretion may offer the family the opportunity to enter into a repayment agreement. MPHA will prescribe the terms of the agreement. (See "Repayment Agreements" in Section A of Chapter 17.

If the family has not reimbursed any PHA for amounts paid to an owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.

If the family has engaged in or threatened abusive or violent behavior toward MPHA personnel.

"Abusive or violent behavior towards MPHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is used to insult, intimidate, or threaten may be cause for termination or denial.

Actual physical abuse or violence will always be cause for termination.

If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents. See Section B of this chapter.

If any member of the family commits drug-related criminal activity, or violent criminal activity. (See Section B of this chapter and 24 CFR 982.553.

If the family fails to remedy HQS violations that are determined to be the responsibility of the family.

Refer to Chapter 2, "Eligibility for Admission", Section F, "Other Criteria for Admission" for further information.

Notice of Termination of Assistance

In any instance where MPHA decides to terminate assistance to the family, MPHA must give the family written notice which states:

The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an informal hearing to be held before assistance is terminated,

The date by which a written request for an informal hearing must be received by MPHA.

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If MPHA proposes to terminate assistance for criminal activity as shown by a criminal record, MPHA will provide the subject of the record and the tenant with a copy of the criminal record.

MPHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

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 proven is more probable than not. The intent is not to prove criminal liability, but to establish that fact(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

MPHA will pursue fact-finding efforts as needed to obtain credible evidence.

MPHA may terminate assistance for criminal activity by a household member under this section if MPHA has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

Denial of Assistance for Sex Offenders

MPHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, MPHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

MPHA may also deny admission or terminate assistance if any member of the household is subject to other registration requirements under a State sex offender or sexual predator program.

Reasonable Accommodation

If denial or termination is based upon behavior resulting from a disability, MPHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Violence Against Women Act

The following provisions are applicable to situations involving actual or threatened domestic violence, dating violence, or stalking, as those terms are defined in Section

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6(u)(3) of the United States Housing Act of 1937, as amended, (42 U.S.C. §1437d(u)(3)) and in the Violence Against Women Act (VAWA) Policy. To the extent any provision of this section shall vary from or contradict any other provision of this Administrative Plan, the provisions of this section shall prevail.

Termination of Tenancy

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not constitute a serious or repeated violation of the lease by the victim of such violence; and

Criminal activity directly relating to domestic violence, dating violence or stalking, engaged in by a member of the Tenant's household, a guest, or other person under the Tenant's control, shall not be cause for termination of participation or occupancy rights, if the Tenant or any member of the Tenant's family is a victim of that domestic violence, dating violence, or stalking.

Notwithstanding anything to the contrary contained in paragraphs 1 and 2 above, MPHA may terminate Tenant's tenancy under this lease if it can demonstrate an actual and imminent threat that may result to other tenants or to those employed at or providing service to the property in which the unit is located, if the Tenant's tenancy is not terminated.

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of MPHA to fully endorse and implement a policy designed to:

- Help create and maintain a safe and drug-free community
- Keep our program participants free from threats to their personal and family safety
- Support parental efforts to instill values of personal responsibility and hard work
- Help maintain an environment where children can live safely, learn and grow up to be productive citizens
- Assist families in their vocational/educational goals in the pursuit of self-sufficiency

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of

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race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

To the maximum extent possible, MPHA will involve other community and governmental entities in the promotion and enforcement of this policy.

Screening of Applicants

In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, MPHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older.

HUD Definitions

- *Covered person*, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
- *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.
- *Guest*, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied Agency to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.
- *Household*, for the purposes of 24 CFR Part 982 and this chapter, means the family and MPHA-approved Live-In Aide.
- *Other person under the tenant's control*, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied Agency to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.
- *Violent criminal activity* means any criminal activity that has as one of its

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elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Standard for Violation

MPHA will deny participation in the program to applicants and terminate assistance to participants in cases where MPHA determines there is reasonable cause to believe that a household member or other person under the tenant's control is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where MPHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

"Engaged in or engaging in" violent criminal activity means any act within the past three years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, which did not result in the arrest and/or conviction of the applicant, participant, or household member.

The activity is being engaged in by any family member.

The above-referenced behavior by any household member, regardless of the applicant or participant's knowledge of the behavior, shall be grounds for denial or termination of assistance.

In evaluating evidence of negative past behavior, MPHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Drug Related and Violent Criminal Activity

Ineligibility for Admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher Program for at least a three-year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, MPHA determines that the circumstances leading to eviction no longer exist because the criminal household member has died. Applicants will be denied assistance if they, or anyone who intends to reside in the household, have been arrested, convicted, or evicted from federally assisted housing for violent criminal activity within the last three years prior to the date of the eligibility interview.

Denial of Assistance for Sex Offenders

MPHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, MPHA will perform criminal history background checks to determine

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whether any household member is subject to a lifetime sex offender registration requirement.

MPHA may also deny admission or terminate assistance if any member of the household is subject to other registration requirements under a State sex offender or sexual predator program.

Termination of Assistance for Participants

Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in:

Drug-related criminal activity, or

Violent criminal activity, or

Other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

HUD regulations at 24 CFR 982.553(b) requires MPHA to establish standards for termination of assistance when this family obligation is violated. MPHA has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance will be terminated for participants who have been:

- Arrested, convicted, or evicted for drug-related or violent criminal activity during participation in the program, and within the last three years prior to the date of the notice to terminate assistance.

If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, MPHA will terminate assistance.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if MPHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Assistance will be terminated if a household member is convicted for any alcohol related criminal activity on or near the premises within any six-month period.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

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The family must supply any information that MPHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

The family must supply any information requested by MPHA 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 (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

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

The family is responsible for an HQS breach caused by the family as described in 982.404(b).

The family must maintain utilities in the name of an adult household member.

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

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify MPHA before the family moves out of the unit or terminates the lease upon notice to the owner.

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

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

The composition of the assisted family residing in the unit must be approved by MPHA. The family must promptly inform MPHA of the birth, adoption or court awarded custody of a child. The family must request MPHA approval to add any other family member as an occupant of the unit.

The family must promptly notify MPHA if any family member no longer resides in the unit or is temporarily away from the unit for more than 30 days.

If MPHA has given approval, a foster child or a Live-In Aide may reside in the unit. If the family does not request approval or MPHA approval is denied, the family may not allow a foster child or Live-In Aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sublease or let the unit.

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

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The family must supply any information or certification requested by MPHA to verify that the family is living in the unit, or relating to family absence from the unit, including any MPHA-requested information or certification on the purposes of family absences. The family must cooperate with MPHA for this purpose. The family must promptly notify MPHA of absence from the unit.

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

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. 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. An assisted family, or members of the family, may not receive Housing Choice Voucher Program 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.

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Housing Agency Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, MPHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. MPHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. MPHA may also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used with the family obligations always means "within ten calendar days." Denial or termination of assistance is always at the discretion of MPHA management except where this Plan or the regulations state otherwise.

HQS Breach

The Inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Manager of Housing Choice Voucher Program Inspections.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- The number of occurrences of lease violations.

- If the owner evicts the tenant.

- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations and MPHA concurs that the lease violations are serious and repetitive.

- If the owner notifies the family of intention to evict for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

- If there are police reports, neighborhood complaints or other third party information, that has been verified by MPHA.

Nonpayment of rent is considered a serious violation of the lease.

Notification of Eviction

If the family requests assistance to move and they did not notify MPHA of an eviction within three days of receiving the Notice of Lease Termination, the move will be denied.

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Proposed Additions to the Family

MPHA will deny a family's request to add additional family members who are:

Persons who have unsatisfactory tenant history with MPHA's public housing program.

Persons who have previously violated a family obligation listed in Section C of this chapter and 24 CFR 982.51 of the HUD regulations.

Persons who have been part of a family whose assistance has been terminated under the Certificate or Voucher program.

Persons who have lived as an unauthorized person in a family whose assistance has been terminated under the Certificate or Voucher program.

Persons who have engaged in drug-related or violent criminal activity. Persons who do not meet MPHA's definition of family as defined in this Plan.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to MPHA or to another PHA in connection with Housing Choice Voucher Program or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward MPHA personnel.

Family Member Moves Out

Families are required to notify MPHA within ten calendar days, if any family member leaves the assisted household. When the family notifies MPHA, they must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit

Families are required to report to MPHA and owner, in advance, their intention to use the unit for a business activity.

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

If MPHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

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If MPHA determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether (s) he is a member of the assisted family, unless the family owns the mobile home and rents the pad.

Fraud

In each case, MPHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

D. PROCEDURES FOR NONCITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. MPHA must offer the family an opportunity for a hearing.

(See "Eligibility for Admission" chapter, section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When MPHA has clear, concrete, or substantial documentation (such as a student visa) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship/eligible immigrant status, MPHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

MPHA will then verify eligibility status, deny, terminate, or continue assistance as applicable.

MPHA will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with MPHA either after the INS appeal or in lieu of the INS appeal.

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After MPHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANCIES [24 CFR 982.455(a)]

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the voucher will be terminated. If, within the 180-day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, MPHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]

Providing the option to repay in the cases of misrepresentation is at the discretion of MPHA management. If the family has misrepresented any facts that caused MPHA to overpay assistance, MPHA may choose not to terminate and may offer to continue assistance provided that the family signs a repayment agreement and reimburses MPHA in accordance with the terms specified in the agreement.

G. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552(c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, MPHA will deny or terminate assistance. This includes side deals, e.g., additional rent payments.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552(c)]

It is a Family Obligation to supply information, documentation, and certification as needed for MPHA to fulfill its responsibilities. MPHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow MPHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying MPHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow MPHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

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Briefings and Voucher Issuance

Verification Procedures

Housing Quality Standards Inspections

Recertifications

Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Family emergency

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given two opportunities to keep a scheduled appointment before being issued a notice of termination or denial for breach of a family obligation. Once the notice is issued, the family may not be given the opportunity to cure the breach. The family will have a right to a hearing in regard to the notice of termination.

CHAPTER 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.4531]

INTRODUCTION

It is the policy of MPHA to recruit owners to participate in the voucher program. MPHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of MPHA. MPHA has the discretion to disapprove or otherwise restrict the participation of owners. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

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

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

MPHA may disapprove the owner for the following reasons:

HUD or another government agency has informed MPHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed MPHA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.

HUD has informed MPHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.

Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. MPHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability. In cases where the owner and tenant bear the same last name, MPHA may, at its discretion, require the family and/or owner to certify whether they are related to each other in any way.

MPHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner fails to submit and/or update Housing Choice Voucher Program Owner Registration, listing the names and current addresses of all individuals having an ownership interest in the property, regardless of the legal entity that may hold title.

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The owner has violated obligations under a housing assistance payments contract under Housing Choice Voucher Program of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.

The owner has engaged in criminal activity, drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with HQS and/or neighborhood standards for units leased under the tenant-based program or leased under any other Federal housing program.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

The owner has a history or practice of failing to terminate tenancy assisted under Housing Choice Voucher Program or any other federally assisted housing program, or to take lease enforcement action 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 by other residents or neighbors;
- Threatens the health or safety of other residents, of employees of MPHA, or other persons engaged in management of the housing;
- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
- Is drug-related criminal activity or violent criminal activity.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

The owner has not paid state or local real estate taxes, utilities, fines, or assessment.

The owner has not fully complied with requirements for paying City of Middletown Earnings Tax or is in arrears on City of Middletown Earning Tax filings or payments.

The owner is not in compliance with other City of Middletown codes and ordinances.

The owner has unsatisfactory performance in the HCV program.

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B. OWNER RESTRICTIONS AND PENALTIES

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations or other gross unprofessional conduct, MPHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. MPHA may also terminate some or all contracts with the owner at its sole discretion.

Before imposing any penalty against an owner, MPHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

C. OWNER REQUIREMENTS [24 CFR 982.306]

MPHA requires that all property owner participants in the Housing Choice Voucher Program meet minimum requirements prior to contract approval. Those requirements include:

All landlords are required to disclose all principals within partnerships, LLC's, corporations or any other business entities that have an interest in the proposed rental property on MPHA's *Property Owner Information Sheet*. Full disclosure of said entities is required prior to lease approval, and updates are required for the duration of the owner's program participation if any changes occur.

MPHA will verify that the legal owner of record reported on the Request for Tenancy Approval matches Butler County tax records. If there is a discrepancy, verification of ownership status is required or the landlord must demonstrate adequate legal site control of the proposed rental property prior to lease approval.

All owners must participate in MPHA's Housing Choice Voucher Program Landlord Orientation prior to lease approval.

All owners must demonstrate the ability to work with the administrative and programmatic requirements of the HCV program.

All owners must provide information for mandatory direct deposit of HAP.

D. UNIT REQUIREMENTS [24 CFR 982.306(6)(7)]

MPHA will ensure that all HCVP properties meet the following minimum pre-approval requirements:

Proposed units will be pre-screened to determine if there is any outstanding building code or property maintenance code violations. Units with code violations (that would cause the unit to fail an HQS inspection) will not be inspected and the Request for Tenancy Approval will be cancelled.

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All proposed units will be pre-screened to ensure that there are no delinquent property taxes. Units will not be approved until delinquent property taxes have been paid in full. Proof of payment will be required prior to lease approval.

E. PROGRESSIVE ENFORCEMENT PROGRAM

MPHA expects that owners of HCV-assisted units will conduct themselves in a professional manner when working with MPHA staff and/or the HCV-assisted residents. The requirements outlined below are published for information and are not meant to be all-inclusive, since unanticipated circumstances may arise that require the immediate suspension or termination of an owner from the program. The following standards are not intended to create a right to participate in the program and are specific to “owner responsible” repairs. MPHA reserves the right to discontinue its business relationship with an owner upon notice.

Remedial Steps

Measurement of non-compliance with HQS will commence on July 1, 2011. Upon execution of the new HQS Compliance policy, in January, 2012, MPHA will review a six month history of an owner’s HQS inspection record to determine if any violations have occurred. For the implementation of the policy, July 1, 2011 through December 31, 2011

Non-compliance with HQS means:

- **Three or more** occurrences of failing to make needed repairs by the “due date of repairs” in a retroactive 6-month period;
- **Two or more** HAP contract cancellations due to HQS non-compliance in a retroactive 6-month period;or
- The owner is currently cited by code enforcement officials for serious rental property code violations and these violations have not been corrected. Serious code violations are building code violations that pose an immediate threat to the safety and welfare of the legal occupant as determined by local building code enforcement officials.

For the annual enforcement period commencing July 1, 2012.

Non-compliance with HQS means:

- **Six or more** occurrences of failing to make needed repairs by the “due date of repairs” in a retroactive 12-month period from current month;
- **Four or more** HAP contract cancellations due to HQS non-compliance in a retroactive 12-month from current month; or
- The owner is currently cited by code enforcement officials for serious rental property code violations and these violations have not been corrected. Serious code violations are building code violations that pose an immediate

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threat to the safety and welfare of the legal occupant as determined by local building code enforcement officials.

If any of the above policies are violated, MPHA may suspend an owner's future participation in the MPHA HCV Program for a period of 12 months from the date of notification to the owner. Reinstatement of the owner's participation in the HCV Program will depend on the owner's efforts to comply with MPHA, HUD, state, and local laws and regulations. If MPHA determines that the owner has not made a good faith effort to comply, the suspension may continue for additional 12-month periods until the owner demonstrates to MPHA's satisfaction that sustained progress had been made towards compliance with HCV regulations and MPHA Administrative Plan policies.

While existing HCV contracts are not affected by the above policies, MPHA reserves the right to cancel an owner's remaining HCV contracts if there are continued HCV contract violations or for any of the non-compliance instances listed above. MPHA may permanently deny an owner from future participation if it is in the best interest of the HCV program.

If an owner has more than one vendor account with MPHA, all vendor accounts are affected by the above policies. This would include all business entities with which the owner is associated with are also ineligible.

F. CHANGE IN OWNERSHIP

Change in ownership does not confer upon the subsequent owner the right of participation in the HCV Section 8 program. The subsequent or "new" property owner must provide MPHA with an employer identification number or a social security number on IRS Form W-9 for reporting income to the IRS on Form 1099. The owner must provide a home telephone number and/or business number if applicable. The subsequent or "new" owner must adhere to program requirements. In addition, a change in ownership requires execution of a new owner registration form, contract and lease.

MPHA may approve the assignment of the HAP Contract at the owner's request. MPHA may deny approval of assignment of the contract, for any of the reasons listed in Section A of this chapter.

MPHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the employee identification number or social security number of the new owners.

The "HAP Payee" for a property participating with the HCV program will be in the name of the entity or person of which the property is titled.

Land Contracts

In the case of land contracts, the HCV eligible titled property owner will continue to receive the housing assistance payments. The HCV eligible titled property owner may agree to allow the land contract vendor to receive the Housing Assistance payments

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as the property manager or agent for the HCV subsidized residence. However, the parties must complete a Property Manager Authorization form. The parties are advised that the titled property owner may withdraw consent or change the property management arrangement. The subsequent or “new” owner must participate in MPHA’s Housing Choice Voucher Landlord Orientation prior to approval or recertification of HCV leases.

Dual Ownership

In the event that a dispute arises between joint owners of property, MPHA may pay the housing assistance payments into the Court of Common Pleas through a Complaint of Interpleader. If the parties are unable to resolve the dispute, MPHA will not renew the HAP contract or grant a Request for Tenancy Approval during the pendency of the dispute.

Receivership

A court appointed receiver does not obtain any greater right to receive housing assistance payments under the HAP contract than the property owner. The court appointed receiver must adhere to program requirements.

G. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

CHAPTER 17

OWNER OR FAMILY DEBTS TO MPHA

[24 CFR 982.552]

INTRODUCTION

This chapter describes MPHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is MPHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support MPHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to MPHA, the agency will make every effort to collect it. When a family owes money to MPHA, notice will be provided to the family and 30 days will be given for the family to either pay the debt in full or enter into a repayment agreement with MPHA. When an owner owes money to MPHA, MPHA will recoup any amounts owed from future HAP payments made to the owner. If the owner is no longer a participant with the HCV program, MPHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Obtaining a judgment against the owner and placing a lien against real estate property owned
- Payment agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs

MPHA may terminate assistance to a family for failing to pay a debt owed in full or enter into a repayment agreement within 30 days of notification of the monies owed.

MPHA may terminate a HAP Contract with an owner for failure to repay monies owed to MPHA.

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MPHA reserves every right to modify this policy in the best interest of the assisted family.

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

A Repayment Agreement as used in this Plan is a document entered into between MPHA and a person who owes a debt to MPHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to MPHA upon default of the agreement.

MPHA will prescribe the terms of the repayment agreement, including determining whether to enter into a repayment agreement with the family based on the circumstances surrounding the debt to MPHA.

There are some circumstances in which MPHA may not enter into a repayment agreement. They are:

If the family already has a Repayment Agreement in place.

If MPHA determines that the family committed program fraud.

If MPHA determines that the debt amount is larger than can be paid back by the family within 36 months.

The maximum amount for which MPHA will enter into a repayment agreement with a family is \$5,000.

The maximum length of time MPHA will enter into a repayment agreement with a family is 36 months.

The minimum monthly amount of monthly payment for any repayment agreement is \$25.

Repayment Schedule for Monies Owed to MPHA

<u>(% of Total Amount)</u>	<u>Initial Payment Due</u> <u>Amount Owed</u>	<u>Maximum Term</u>
25%	0-\$500	6 months
25%	\$501 - \$1,000	12 months
25%	\$1,001 - \$1,999	18 months
25%	\$2,000 - \$2,999	24 months
25%	\$3,000 - \$5,000	36 months

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After making the initial payment, the balance will be owed in equal monthly installments over the term of the repayment agreement. No Repayment Agreement will be accepted without the initial payment of 25%. A family's failure to make payments in accordance with the terms of the repayment agreement is grounds for termination of assistance.

B. DEBTS OWED FOR CLAIMS [24 CFR 792.103, 982.552 (c)(v-vii)]

If a family owes money to MPHA for claims paid to an owner, MPHA will not enter into a Repayment Agreement. No move will be approved until the debt is paid in full unless the move is the result of the following causes.

Family size exceeds the HQS maximum occupancy standards.

The HAP Contract is terminated due to owner non-compliance or opt-out.

A natural disaster.

Late Payments

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's repayment agreement is in arrears, and the family has not contacted or made arrangements with MPHA, the agency will:

Terminate the housing assistance; and

Pursue civil collection of the balance due.

If the family requests a move to another unit, has a repayment agreement, and is current:

The family will be permitted to transfer after paying the balance in full.

C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Housing Choice Voucher Program funds in violation of Housing Choice Voucher Program requirements.

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Family Error/Late Reporting/Program Fraud

Families who owe less than \$5,000 to MPHA due to the family's failure to report will be required to repay in accordance with the guidelines in the Repayment Agreement Section of this Chapter.

Families who owe \$5,000 or more to MPHA due to the family's failure to report will be required to pay in a lump sum within 30 days. If the family pays the amount in full within this time period, MPHA may continue assistance to the family.

D. DEBTS DUE TO MINIMUM RENT/TEMPORARY HARDSHIP

If the family owes MPHA money for rent arrears incurred during the minimum rent or temporary hardship, the family may enter into a repayment agreement. The total amount owed must be repaid in 180 calendar days or less in equal monthly installments.

The minimum monthly amount for a payment agreement incurred for minimum rent arrears is \$25.

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

Repayment agreements will be executed between MPHA and the head of household/co-head only.

The repayment agreement must be executed by the Manager of Admissions or the Manager of Occupancy, or their designee.

Payments may be made by money order, or cashier's check made payable to MPHA.

A payment will be considered in arrears if the payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

The family's assistance will be terminated unless MPHA receives the balance of the repayment agreement in full within 10 calendar days of the termination notice.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of either the Manager of Admissions or the Manager of Occupancy.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the repayment agreement is current:

Family size exceeds the HQS maximum occupancy standards.

The HAP Contract is terminated due to owner non-compliance or opt-out.

A natural disaster.

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Applicants participating in the Special Programs shall be permitted to sign a repayment agreement for funds owed to MPHA and receive a voucher. Such agreements require at least a 25% down payment.

All repayment agreements will be due the first of the month according to the following schedule:

If the agreement is signed and returned between the 1st and 14th of the month payment will be due the next month. If it is signed between the 15th through the end of the month, payment will be due the first of the month after the upcoming month (i.e. agreement signed 8/16, first payment will be due 10/1; signed 8/1, first payment will be due 9/1). Payments for all agreements will be due on the 1st of the month.

When completing a REPAYMENT AGREEMENT form a copy should go to the Manager of Admissions & Occupancy and a copy to the Finance Department designee. The original is to be maintained in the client file.

Any REPAYMENT AGREEMENT form requested through the mail will be due back in 10 business days from the date of the request. Failure to respond may result in termination.

Additional Monies Owed:

MPHA will not enter into more than one repayment agreement with the family.

F. OWNER DEBTS TO MPHA [24 CFR 982.453(b)]

If MPHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to, MPHA may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, MPHA will collect the debt and may use one of the following methods:

Enter into a payment agreement with the owner for the amount owed.

Pursue collections through the court and/or a collection agency.

Obtain a judgment against the owner and secure a lien against real estate property owned.

Restrict the owner from future participation.

MPHA may also refer an owner for prosecution for program fraud.

CHAPTER 18

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in the HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of MPHA. This chapter describes the policies, procedures and standards to be used when families disagree with a MPHA decision. The procedures and requirements are explained for informal reviews and hearings. It is the policy of MPHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO MPHA

MPHA will respond promptly to complaints from families, owners, employees, and members of the public in accordance with its complaint procedures. All complaints will be documented.

MPHA hearing procedures will be provided to families in the briefing.

Categories of Complaints

Internal Resolution

Complaints from families: If a family disagrees with an action or inaction of MPHA or the owner.

Based on the nature of the complaint from a participating family, the complaint will be referred to the Program Manager for investigation and resolution.

Complaints from owners: If an owner disagrees with an action or inaction of MPHA or a family.

Based on the nature of the complaint from a participating owner, the complaint will be referred to the Program Manager for investigation and resolution. There is no owner appeal from any matter or decision with which the Agency has discretion.

Complaints from the general public: Complaints or referrals from persons in the community in regard to MPHA, a family or an owner.

Complaints from the general public will be referred to the Program Manager for investigation and resolution.

Informal Reviews/Hearings

Informal reviews and hearings require:

A written request from the complainant.

A review/hearing from a MPHA staff person not involved in the departmental decision-making process.

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A written reply.

B. INFORMAL REVIEW PROCEDURES [24 CFR 982.54(d)(12), 982.554]

Informal Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. When MPHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible,

The procedure for requesting an informal review if the applicant does not agree with the decision, and

The time limit for requesting an informal review.

When proposing to deny a family admission for criminal activity as shown by a criminal record, MPHA will give the subject 7 days to respond to the proposed action. The subject will receive a copy of the criminal record upon which the proposed decision to deny is based to allow the family to dispute and/or clarify the information received. After the 7 days, MPHA will send the applicant a letter with MPHA's final decision regarding the family's admission to the program. If the family is denied, the family will have 10 days to request a review in writing. If a review request is not received within those 10 days, the applicant family will be removed from the waiting list without further notification.

Applicants are responsible for notifying MPHA in writing of any change of address pending the informal review. If the informal review notification is returned to MPHA without a forwarding address by the U.S. Postal Service and the tenant has not provided a forwarding address in writing to MPHA, the decision to reschedule a hearing is at the discretion of the Program Manager of MPHA.

MPHA must provide applicants with the opportunity for an informal review of decisions to:

Deny issuance of a voucher

Deny participation in the program

Deny assistance under portability procedures

Terminate a family's FSS contract or withhold supportive services.

Informal reviews are not required for established policies and procedures and MPHA determinations such as:

Discretionary administrative determinations by MPHA

General policy issues or class grievances

An Applicant withdrawn from the Waiting List for failure to update their change of address in writing

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A determination of the family unit size under MPHA subsidy standards

Refusal to extend or suspend a voucher

MPHA determination not to grant approval of the tenancy

Determination that unit is not in compliance with HQS

Determination that unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than 10 calendar days from the date of MPHA's notification of denial of assistance. The informal review will be scheduled within 30 calendar days of the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

A MPHA staff person who is not directly involved in the decision to approve or deny

An individual from outside MPHA

The applicant will be given the option of presenting oral and/or written objections to the decision. Both MPHA and the family may present evidence and witnesses. The family may use one designee, e.g. an attorney or other representative, to assist them at their own expense.

A notice of the findings will be provided in writing to the applicant within 15 business days after the review. It shall include the decision of the Hearing Officer, and an explanation of the decision.

All requests for an informal review, supporting documentation, and a copy of the final decision will be retained in the family's file.

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

MPHA will give a participant family an opportunity for an informal hearing to consider whether the following decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and MPHA policies:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment

Appropriate utility allowance used from schedule

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Family unit size determination under MPHA subsidy standards

Determination to terminate assistance for any reason

MPHA must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and MPHA determinations such as:

Discretionary administrative determinations by MPHA

General policy issues or class grievances

Establishment of the MPHA schedule of utility allowances for families in the program

MPHA determination not to approve an extension or suspension of a voucher term

MPHA determination not to approve a unit or lease

MPHA determination that an assisted unit is not in compliance with HQS (MPHA must provide hearing for family breach of HQS because that is a family obligation determination)

MPHA determination that the unit is not in accordance with HQS because of the family size

MPHA determination to exercise or not exercise any right or remedy against the owner under a HAP Contract

When MPHA makes a decision regarding the eligibility and/or the amount of assistance, participants must be notified in writing. MPHA will give the family prompt notice of such determinations which will include:

The proposed action or decision of MPHA

The date the proposed action or decision will take place

The family's right to an explanation of the basis for MPHA's decision

The procedures for requesting a hearing if the family disputes the action or decision

The time limit for requesting the hearing

To whom the hearing request should be addressed

Notification of Hearing

It is MPHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, MPHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

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An informal hearing shall be scheduled within 30 calendar days following receipt of a hearing request. Tenants are responsible for notifying MPHA in writing of any change of address pending the informal hearing. If the informal hearing notification is returned to MPHA without a forwarding address by the U.S. Postal Service and the tenant has not provided a forwarding address in writing to MPHA, the decision to reschedule a hearing is at the discretion of the Manager of Admissions, the Manager of Occupancy, or their designee. The notification of hearing will contain:

- The date and time of the hearing
- The location where the hearing will be held
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense
- The right to view any documents or evidence in the possession of MPHA upon which MPHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than 5 business days before the hearing date.
- A notice to the family that MPHA requests a copy of any documents or evidence the family will use at the hearing.

MPHA's Hearing Procedures

After a hearing date is set, the family may request to reschedule only upon showing "good cause" which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Families have the right to:

- Present written or oral objections to MPHA's determination.
- Examine the documents in the file which are the basis for MPHA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that MPHA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

In addition to other rights contained in this Chapter, MPHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;

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- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have their attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of MPHA shall take effect and another hearing will not be granted. The Hearing Officer will determine whether the action, inaction or decision of MPHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to MPHA and the family within 15 business days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed;
- The date the decision goes into effect.

MPHA is not bound by hearing decisions which:

- Concern matters in which MPHA is not required to provide an opportunity for a hearing;
- Are contrary to HUD regulations or requirements;
- Are contrary to Federal, State or local laws; or
- Exceed the Agency of the person conducting the hearing.

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If MPHA determines it is not bound by a hearing decision, MPHA will notify the family of the determination, and the reason(s) for the determination.

D. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NONCITIZENS" [24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while MPHA hearing is pending but assistance to an applicant may be delayed pending MPHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, MPHA notifies the applicant or participant within 10 business days of their right to appeal to the INS within 30 business days or to request an informal hearing with MPHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give MPHA a copy of the appeal and proof of mailing or MPHA may proceed to deny or terminate. The time period to request an appeal may be extended by MPHA for good cause.

The request for a MPHA hearing must be made within 14 calendar days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 14 calendar days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members MPHA will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral

Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, MPHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to

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the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the noncitizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

E. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204,982.552(c)]

When applicants are denied placement on the waiting list, or MPHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing process.

CHAPTER 19

SPECIAL HOUSING TYPES

[24 CFR 982.6011

INTRODUCTION

MPHA may permit the use of additional housing types in its program after considering the benefits, costs, and feasibility for serving the housing needs of assisted housing customers.

Verification of Need for Reasonable Accommodation

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to MPHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by the Program Specialist. A written response stating approval or disapproval will be sent to the applicant/participant within ten business days of receipt of the request.

A copy of the MPHA's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

A. SINGLE ROOM OCCUPANCY PROGRAM (SRO)

The Single Room Occupancy Program (SRO) is operated in conjunction with the Federal Regulations as published by the Department of Housing and Urban Development. The following is an overview of the program and MPHA's policies and procedures that the Agency will enforce in the operation of this program.

The SRO Program was originally targeted for Single Men who were considered "homeless" as defined below. In 2004, HUD approved this program for either males or females, whichever is most needed in the City of Middletown.

Definitions:

- One who is an eligible individual,
- Lacks a fixed, regular, and adequate nighttime residence; and has a primary nighttime residence that is –
- A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter, and transitional housing for the mentally ill)
- An institution that provides a temporary residence for individuals intended to be institutionalized; or

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- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term “Homeless Individual” does not include any individual who is imprisoned or otherwise detained under an Act of Congress or a State Law.

The Hope House Rescue Mission offers the SRO Program to persons who meet the eligibility requirements and who meet the “Homeless” preference. These persons are referred to and are briefed by MPHA regarding the procedures and policies of the Program.

MPHA is responsible for conducting the **Housing Quality Standard** Inspection that is conducted prior to lease signing and Initial Move-In and on an annual basis, MPHA conducts the tenant’s re-certification.

MPHA will determine and make adjustments as necessary in the Total Tenant Payment (TTP). The procedure will be conducted for any interim or annual re-determinations.

The Hope House Rescue Mission is entitled to retain the HAP for any unit which is vacated during the month. However, no payment will be made for any unit not occupied.

The Lease and HAP will be executed only after eligibility is determined, the TTP has been calculated and an approved inspection assigned to the unit.

The Hope House Rescue Mission is responsible for the supportive services that may be required by persons participating in the SRO Program.

B. HOMEOWNERSHIP [24 CFR 98.625]

The Quality Housing and Work Responsibility Act of 1998 created the ability for public housing agencies to establish Homeownership Programs. Families are permitted to convert their Housing Choice Voucher (HCV) from rental assistance to homeownership assistance. Low-income working, elderly and disabled families will have an opportunity to become homeowners.

In accordance with the HCV Homeownership Program regulations published in 24 CFR 982 and the MPHA Plan's goal to promote self-sufficiency, asset development, and economic securities for assisted households, we, hereby, establish MPHA's HCV Homeownership Program effective April 2002. The HCV Homeownership Program permits eligible participants in the HCV Program the option of purchasing a home with their HCV assistance. MPHA may limit the number of referrals to the counseling agency for the Homeownership Program, ultimately resulting in a maximum of 50 homeowner voucher participants. Expansion of the program is at the sole discretion of MPHA. The policies governing the program will be reevaluated at least on a yearly basis as part of MPHA's Annual Plan.

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Participation in the Homeownership Program is voluntary. Each participant must meet the general requirements for participation in the HCV Program. Participation is open to all families, including elderly and disabled families. An attempt will be made to have a mix of Family Self-Sufficiency (FSS), elderly, and disabled families to participate in the program. Eligible applicants (including participants with portable vouchers) must be under lease in the HCV Program. MPHA may waive this requirement for a disabled family who requires reasonable accommodation for their housing and is eligible for admission to the HCV Program. Applicants must be in good standing with MPHA; must be in full compliance with their lease and HCV Program Family Obligations; and must meet HCV Homeownership Program family eligibility requirements.

Eligibility Requirements

To be eligible to participate in the HCV Homeownership Program, families must meet all the following initial eligibility requirements.

First-Time Homebuyer

The family must be a first time homebuyer, that is, they may not have owned nor had a financial interest in a residence within the past three years. Exceptions may be granted for families with a disabled family member; a single parent or a displaced homemaker who, while married, owned a home with a spouse or resided in a home owned by a spouse; and for cooperative members who had cooperative memberships prior to the homeownership program.

Minimum Income Requirement

To be income eligible, the family must have a minimum gross annual income of at least \$14,500, excluding welfare assistance. Elderly and disabled families may count welfare assistance, but still must have a minimum yearly income as stated above. Also, welfare assistance shall be included only for those adult elderly or disabled family members who will own the home. (Welfare assistance includes Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI); general assistance; or other welfare assistance as specified by HUD).

Minimum Income for Disabled Families

The minimum income standard is equal to the annual amount of Federal Supplemental Security Income (SSI) benefit for an individual living alone. Since this amount is less than the higher standard established by MPHA, a family may satisfy the minimum income requirement for Homeownership if able to also demonstrate:

The family has been pre-qualified or pre-approved for financing.

The pre-qualified or pre-approved financing meets established requirements (including qualification of lenders and terms of financing).

The pre-qualified or pre-approved financing amount is sufficient to purchase housing that meets HQS standards in MPHA's jurisdiction.

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Employment

At least one family member who is a homebuyer must be employed full-time (not less than an average of 30 hours per week) and continuously employed for at least one year prior to the date of approval for a mortgage loan. Self-employment may be considered. MPHA may determine whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. Elderly and disabled families are exempt from the employment requirement. Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, MPHA may grant an exemption from the employment requirement if needed in order to meet a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Mortgage Default

A family is ineligible if any household member has previously received homeownership assistance and defaulted on a mortgage.

Family Self-Sufficiency (FSS) Participant or Graduate, or Elderly, or Disabled

Applicants for MPHA's HCV Homeownership Program are required to be:

1. Enrolled in the Family Self-Sufficiency (FSS) program, or
2. A former participant who completed the FSS program and continues to receive rental subsidy, or
3. An elderly or disabled family.

Good Standing with MPHA

Applicants for MPHA's HCV Homeownership Program are required to be current on rent, be in full compliance of the lease agreement, and with no monies owed to the PHA or the landlord. Letters issued by the PHA which indicate possible program violation(s) will delay participation in this voluntary program. This delay may be for up to 12 months unless the situation has been resolved to the satisfaction of the agency representative who makes the referrals.

Minimum Savings Requirement

To be savings eligible, the family must have a minimum personal savings of \$500 (in a savings account). This is in anticipation of the family's out of pocket fees and costs depending upon the mortgage for which the person/family may qualify.

Families will also be encouraged to save money during the homeownership counseling to meet the additional costs of homeownership (estimated to be \$1,500).

Homeownership Ready

In order to expand the opportunity for homeownership to more participants who may not need the services of Family Self-Sufficiency (FSS), this new category requires that the participant have a minimum annual earned income of \$18,000 with stable, full-time

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employment for at least one year. The requirement to be pre-enrolled in FSS is removed, but the minimum savings requirement remains the same. Families will be enrolled in FSS during their next recertification cycle.

Additional Family Requirements

Once a family has met all initial eligibility requirements, MPHA will refer the family for an initial assessment and an overview of the HCV Homeownership Program by the counseling agency. The head of household will be determined prior to the family receiving homeownership assistance.

Pre-assistance Economic Counseling

If determined necessary, the family will be required to attend and satisfactorily complete pre-assistance economic counseling with a MPHA-approved agency or program. This includes proof of the family's ability to save money and to maintain a checking account.

Pre-assistance Homeownership Counseling

The family must attend and satisfactorily complete pre-homeownership counseling sessions with a MPHA-approved counseling agency. Counseling topics include: home maintenance; budgeting and money management; credit counseling and repair; how to find a home; how to negotiate the purchase price; financing and loan pre-approvals; real estate laws (federal and state); fair housing information; and the advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.

Mortgage Ready

The family must be able to secure their own mortgage financing through a lending institution. (See additional qualifications under Financing.)

Family's Down Payment

The family is required to contribute a minimum of at least three percent of the purchase price. No less than one percent of the purchase price must come from the family's personal resources. (Funds may include a partial withdrawal from the FSS escrow or Individual Development Account.)

Homeownership Voucher Issuance

Once the family has been pre-approved for financing, MPHA will review specific HCV Homeownership Program forms and processes with both the family and their designated real estate agent. The family will be issued a homeownership voucher with a maximum time of 120 days to locate and purchase a home. For good cause, the voucher may be extended a maximum of two 30-day increments. Should the family fail to locate a unit, the family shall be allowed to request a reissuance of the homeownership voucher. Any reissuance of the homeownership voucher will be reviewed on a case-by-case basis at the discretion of MPHA. Should a homeownership voucher participant fail to locate a home within the approved time frame, the HCV will remain with the family for their rented unit.

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Search and Purchase

On approval of the program, families are required to work with a licensed real estate agent or an established home buying program to locate a home to purchase. When a family submits a proposed sales agreement with the requisite components, MPHA will review the sales agreement and financial information for approval or denial.

Eligible Units

The family can purchase any of the following types of homes: a new or existing single-family home; a single family unit in a cooperative or condominium; or a manufactured home to be permanently situated on a lot owned by the family.

Families may also purchase a home under construction or a home not yet under construction. If a family chooses either option, MPHA shall not commence homeownership assistance for the family for that unit until it has passed all required inspection, and construction has been completed.

Home Inspection

Two kinds of physical inspections are required in the homeownership program (in addition to, and separate from, any lender required inspections): (1) an HQS inspection by MPHA and approved by MPHA; and (2) an independent professional home inspection by an inspector chosen and paid by the family, and approved by MPHA:

Housing Quality Standards (HQS) Inspection

MPHA will conduct its regular inspection to determine that the home meets HQS. If the HQS inspection requires Lead Based Paint (LBP) clearance, the family would be referred to available community resources.

Independent Professional Inspection

The home must also be inspected by an independent professional inspector; from a list of approved persons or groups, preferably one certified by the American Society of Home Inspectors or similar national organization. It is the family's responsibility to obtain and pay for the independent professional inspection.

The independent inspection must cover major building systems and components.

The independent inspector must provide a copy of the inspection report to MPHA and the family. MPHA will not begin homeownership assistance until the inspection report has been reviewed and approved.

MPHA must review the home inspector's report to determine whether repairs are necessary prior to purchase and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely cost of repairs and capital expenditures.

Upon completion of the inspections and approval from MPHA, the buyer must review and sign the Buyer's Acknowledgment and Representation form provided by the FSS

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Coordinator. The buyer must also review and sign the Statement of Family Obligations form.

Contract of Sale and Addendum

The family (buyer) must enter into a sales agreement or contract of sale and Addendum with the seller of the home and provide a copy to MPHA. The Contract of Sale and Addendum must include:

The proposed dwelling address;

The price and other terms of the sale by the seller to the buyer;

The contract is contingent on the house passing a Housing Quality Standards (HQS) inspection performed by MPHA. Any repairs required by MPHA must be completed by the seller and pass a final inspection by MPHA before closing. These repairs are not negotiable.

Provisions that the buyer will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the buyer;

Provisions that the buyer is not obligated to purchase the unit unless the inspection is satisfactory to both MPHA and the buyer;

The buyer shall not be obligated to complete the purchase of the property should the property appraise for less than the sale price listed on the Contract.

Provisions that the buyer is not obligated to pay for any necessary repairs;

A certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation;

A certificate from the seller that the housing unit does not have existing Lead Based Paint work orders issued by any Health Department.

MPHA has the right to: (1) inspect the dwelling and determine that it meets HQS; (2) review and approve the independent inspection report; and (3) review and approve the financing terms and requirements.

Should MPHA not approve the purchase of the property for reasons including, but not limited to, any of the reasons listed above, the earnest money deposit shall not be forfeited and the funds shall be returned to the buyer.

Financing

Financing must comply with the secondary mortgage market underwriting requirements; or comply with generally accepted private-sector underwriting standards. If financed with FHA mortgage insurance, such financing is subject to FHA mortgage insurance requirements. Predatory lending practices are prohibited, such as: sellers financing, balloon payment mortgage, the loan exceeds the client's ability to pay, does not include escrow for taxes and insurance, or is an adjustable rate mortgage.

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MPHA has the right to review lender qualifications and loan terms before authorization of the homeownership assistance. MPHA reserves the right to disapprove financing, refinancing or other debt if determined that it is unaffordable or the lender or loan terms do not meet financing requirements.

Family Obligations for Continued Assistance

Homeownership assistance will only be paid while the family is living in the home. Should the family move out of the unit, MPHA may not continue homeownership assistance. The family or lender is not required to refund assistance for the month when a family moves out.

The family must execute the Things You Should Know About Housing Choice Voucher Program agreeing to comply with all family obligations under the HCV Program and MPHA's Statement of Family Obligations for the HCV Homeownership Program. Failure to comply may result in Homeownership Assistance Payment being withheld, recovered or terminated. The Family Homeownership Obligations for continued assistance are as follows:

- Attend and complete post homeownership counseling;
- Comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt);
- Notify MPHA of an intent to sell in order to be advised of the process;
- May not sell or transfer the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance;
- Supply all required information to MPHA, including, but not limited to, annual household income verifications, and homeownership expenses;
- Provide notice of move-out to MPHA before the family moves out of the home;
- Provide notice of mortgage default to MPHA or if 30 days delinquent in mortgage payment;
- No family member may have any ownership interest in any other residential property during the time the family receives homeownership assistance;
- The family must agree not to refinance or incur additional debt secured by the home;
- Allow MPHA to inspect the home if deemed necessary;
- The family must comply with the terms of the Homeownership Statement of Family Obligations by maintaining fulltime employment (30 hours per week) or, in the event of loss of employment or other household income, family must actively seek income that meets the current minimum eligibility requirements for the HCV Homeownership Program or at a comparable level (whichever is greater);

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The family must provide verification to MPHA that the family is current on payment of the mortgage, taxes, insurance, and utility payments at each annual recertification or upon request by MPHA; and

Ensure that property standards are consistent with neighborhood standards, including the responsibility to be a good neighbor.

Time Limitations

Except for disabled and elderly families, a family may receive MPHA's HCV Program homeownership assistance for a term not to exceed 10 years from the closing, unless the initial mortgage incurred to finance the home has a term of 20 years or longer, in which case the maximum term is 15 years.

Elderly and Disabled Families

Families that qualify as elderly at the start of homeownership assistance are not subject to a maximum term limitation. Families that qualify as disabled at the start of homeownership assistance, or at any time during participation in the homeownership program, are not subject to a maximum term limitation. The term of the second mortgage may be beyond 15 years.

If an elderly or disabled family ceases to qualify as such while receiving homeownership assistance, the appropriate maximum term becomes applicable from the date homeownership assistance began; provided, however, the family will be eligible for at least 6 additional months of homeownership assistance after the maximum term becomes applicable.

If the family has received assistance for different homes or from other housing authorities, the total of such assistance terms is subject to the maximum term limitation.

Amount and Distribution of Assistance

While the family is residing in the home, MPHA will make monthly homeownership assistance payments on behalf of the family directly to the lender(s). If the assistance payment exceeds the amount due the lender(s), the excess will be paid to the family.

The amount of the monthly assistance payment will be based on three factors: the payment standard, the family's household income, and homeownership expenses. The voucher payment standard is the fixed amount MPHA establishes annually as the fair market rent (FMR) for a unit of a particular size located within Butler County's jurisdiction. MPHA will use the same voucher program payment standard amounts for homeownership.

Payment Standard

In the homeownership program, the initial payment standard will be the lower of either: (1) the payment standard for which the family is eligible based on family size; or (2) the payment standard which is applicable to the size of the home the family

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decides to purchase. If the home is located in an exception FMR area, MPHA will use the appropriate payment standard for the exception FMR.

The payment standard in subsequent years will be based on the greater of the payment standard at the start of homeownership assistance; or the payment standard at the most recent regular reexamination of family income and composition since the start of homeownership assistance.

Homeownership Expenses

Homeownership expenses include principal and interest on the initial mortgage debt; any refinancing of such debt; and any mortgage insurance premium incurred to finance the purchase; real estate taxes and public assessments; home insurance; MPHA allowance for utilities; MPHA allowance for routine maintenance expenses; MPHA allowances for major repairs and replacements; principal and interest on major repairs. If the home is a cooperative or condominium, homeownership expenses may include operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

Homeownership Assistance Payment (HAP)

MPHA will use the lower of either: (1) the payment standard minus the total tenant payment or (2) the family's monthly homeownership expenses minus the total tenant payment. MPHA will annually reexamine family income and composition and make adjustments to the amount of the monthly homeownership assistance payment. Homeownership Assistance Payments will be made directly to the lender. The family will be responsible to submit its mortgage payment to the lender.

Participation in the program will automatically terminate 180 calendar days after the last homeownership assistance payment was made on behalf of the family. MPHA reserves the right to grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

Portability of Homeownership Assistance

Families that are determined eligible for homeownership assistance by MPHA may purchase a unit outside the Butler County jurisdiction, provided the receiving public housing Agency is administering a HCV Homeownership Program and is accepting new homeownership families.

MPHA may approve a family's portability move inside its jurisdiction specifically for homeownership if the family demonstrates that:

The family meets the MPHA initial eligibility requirements for the HCV Homeownership Program.

The family meets the specific counseling requirements for the HCV Homeownership Program.

The family will continue to meet the eligibility requirements for MPHA's HCV Homeownership program once they receive a Homeownership voucher

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and move to MPHA's jurisdiction.

Moving with Continued Assistance

Families receiving homeownership assistance may request permission from MPHA to move to a new unit either with (1) voucher rental assistance or with (2) voucher homeownership assistance, only one time in any one year period.

The family may not receive assistance in a new unit while a family member owns title or other interest in the prior home. MPHA will provide continued homeownership assistance as long as the family meets all initial HCV Homeownership eligibility requirements, with the exception of being a first-time homeowner and pre-assistance counseling. However, MPHA may require additional counseling.

MPHA may deny permission for the family to move with continued voucher assistance if MPHA (1) determines that it does not have sufficient funding to provide continued assistance or (2) the family has been terminated or denied assistance.

Denial or Termination of Homeownership Assistance

MPHA may terminate homeownership assistance or may deny voucher rental assistance as follows: (1) Failure to comply with Family Obligations under the Housing Choice Voucher Program (Things You Should Know About MPHA's HCV Program), or (2) Failure to comply with Homeownership Family Obligations and/or requirements or, (3) Mortgage default.

Procedure for Termination or Denial of Homeownership Assistance

Families in the HCV Homeownership Program are entitled to the same termination or denial notice procedures as the voucher rental assistance program. Families are entitled to informal hearing procedures as set forth in MPHA's administrative plan.

Default on FHA-Insured Mortgage

If the family defaults on an FHA-insured mortgage, MPHA may permit the family to move with continued HCV Program rental assistance if the family demonstrates that it has (1) Conveyed title to the home to HUD or their designee, as required by HUD; and (2) Moved from the home within the period established or approved by HUD.

Default on Non-FHA-Insured Mortgage

If the family defaults on a mortgage that is not FHA-insured, MPHA may permit the family to move with continued HCV Program rental assistance if the family demonstrates that it has (1) Conveyed title to the home to the lender, to MPHA or to their designee, as may be permitted or required by the lender; and (2) Moved from the home within the period established or approved by the lender and/or MPHA.

Waiver or Modification of Homeownership Policies

The Executive Director of MPHA or his designated representative will have the sole discretion to waive or modify any provisions of the HCV Homeownership Program not governed by statute or regulation or to comply with changes in HUD regulations or

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directives, or to maintain uniformity and/or consistency with programs offered by or through MPHA.

C. PROJECT-BASED VOUCHERS [24 CFR 983]

Conversion of Housing Choice Vouchers (HCV) To Project-Based Vouchers (PBV)

MPHA may seek to meet the agency's goals to provide quality affordable housing through the occasional use of the conversion of Housing Choice Vouchers into Project-Based vouchers, in accordance with HUD regulations at 24 CFR Part 983. This section explains the agency's specific goals in using this tool, and outlines the required agency and regulatory criteria for the conversion of Housing Choice Vouchers. The use of Project-Based vouchers will be contingent upon the availability of voucher funding, compliance with applicable HUD regulations and verification that such use will further the agency's housing mission as determined by the MPHA Board. Since MPHA hopes to encourage the creation of housing for all types of families, applications for all target groups (e.g., family, elderly, disabled or special needs) will be fully considered and evaluated.

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Local Goals

MPHA may use the conversion of HCV to PBV to further the goals stated in Chapter 1, Section B of the MPHA Administrative Plan. Additionally, MPHA may use this tool to accomplish the following specific goals:

Meet the housing needs of special needs populations through financially supporting the collaboration of private and non-profit partnerships that result in specific and comprehensive housing and service provisions.

Meet the housing needs for a hard-to-serve population through design and/or partnership with local social service agencies.

Provide avenues for partnership with the City of Middletown and/or Butler County to support the preservation of vital housing communities that are pivotal to the local jurisdictional area and/or the submarket of the community's locality.

Support projects which further revitalize neighborhoods, promote the deconcentration of poverty and generally provide increased housing and economic opportunities.

Meet the agency's goal to continuously promote quality affordable housing opportunities for low and moderate-income families.

Proposal Submission and Selection

Request for Proposals

MPHA will select PBV proposals through a public Request for Proposals (RFP) process. MPHA's PBV RFP will be advertised in a manner which will provide broad public notice of the opportunity to offer PBV proposals for consideration by MPHA. The public notice procedures will include publication of the general notice in a local newspaper of general circulation. The RFP will specify the submission deadline and provide detailed information on proposal submission and selection procedures.

Alternative Competitive Process

In lieu of the above RFP process, HUD Regulations permit MPHA to select PBV proposals for housing assisted under federal, state, or local government housing assistance, community development, or a supportive services program that requires competitive selection of proposals, where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration for PBV assistance.

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Site Selection Standards (24 CFR 983.57)

MPHA will use the site selection standards to select sites that will be awarded PBV assistance contracts. Specifically, MPHA will approve and/or prioritize the provision of this assistance using the following criteria:

Provide PBV assistance for properties in census tracts where the poverty rate is 15% or less, unless the project is documented as one that affirmatively furthers one or more of the agency's local goals for PBV.

Provide greater priority to PBV developments located in census tracts that will undergo significant revitalization.

Provide PBV assistance to developments that will be located in or in close proximity to a census tract where the concentration of assisted units has decreased as a result of public housing demolition.

Other PBV Criteria

Approval of all PBV contracts will also be subject to the following MPHA rules and/or HUD regulations:

Compliance with HUD Federal Register Notice: Project-Based Voucher Program; Final Rule dated Thursday, October 13, 2005 and all other applicable regulations located at 24 CFR Part 983.

Compliance with HUD Housing Quality Standards (HQS) as specified in Chapter 10 of the Housing Choice Voucher Administrative Plan.

All applications will be ranked according to specific criteria, based on MPHA's housing goals.

All assisted units will be inspected by MPHA on an annual basis to verify continued compliance with HUD's Housing Quality Standards.

MPHA will not award Site-Based Assistance for shared housing, cooperative housing, transitional housing, manufactured home space rental, or the homeownership option. Additionally, MPHA will not award Site-Based Assistance for properties that are already subsidized under the following programs: Public Housing, any form of Section 8, any local or state rent subsidy, Section 236, Section 521, Section 202, Section 202 Loan, Section 811 or Section 101 Rent Supplement.

Tenant Selection

MPHA will maintain separate waiting lists for the PBV and HCV Programs. Furthermore, MPHA will maintain a separate waiting list for each PBV-assisted property. All PBV program waiting lists will remain open for referrals from the property owner and from applications received at MPHA's HCV Office. All PBV program waiting lists will remain open continuously until MPHA determines that enough applicants have been collected to fill the vacancies projected for a one-year period. PBV applicants will be drawn from the specific PBV waiting list in date and time order.

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Leasing of PBV contract units [24 CFR 983.253]

During the term of the HAP Contract, the owner must only lease contract units to eligible families selected and referred by MPHA from the waiting list. The contract unit leased to each family must be appropriate for the size of the family under MPHA's subsidy standards.

The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform their lease obligations. An owner must promptly notify any rejected applicant in writing of the grounds for any rejection.

MPHA subsidy standards as outlined in chapter 7 of the Administrative Plan will determine the appropriate unit size for family size and composition. If a family is in a wrong-size unit or a unit with accessible features that the family does not require, MPHA will notify the family and owner of the determination and offer the family an opportunity to receive continued housing assistance in another project based unit in the same building or another building within the project based contract with the owner. If the family does not accept the offer, does not move out of the wrong-size or accessible unit or both within 60 days of notification by MPHA, MPHA will terminate the housing assistance payments for the wrong-size or accessible unit.

Cap on number of PBV units in each building [24 CFR 983.56]

MPHA will not select a proposal to provide PBV assistance for units in a building or enter into an Agreement or HAP contract to provide PBV assistance for units in a building if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP is more than 25 percent of the number of dwelling units (assisted or unassisted) in the building.

An Exception to the 25 percent per building cap may be made when PBV units are not counted against cap, as follows:

Units in a single-family building;

Excepted units in a multifamily building.

Terms

"Excepted units" mean units in a multifamily building that are specifically made available for qualifying families.

"Qualifying families" means:

Elderly or disabled families; or

Families receiving supportive services.

It is not necessary that the services be provided at or by the project, if they are approved services. To qualify, a family must have at least one member receiving at least one qualifying supportive service. MPHA may not require participation in

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medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in MPHA's administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit will continue to count as an excepted unit for as long as the family resides in the unit. If a family in an excepted unit fails without good cause to complete its FSS contract of participation or if the family fails to complete the supportive services, MPHA will take the actions provided under §983.261(d), and the owner may terminate the lease in accordance with §983.257(c). Also, at the time of initial lease execution between the family and the owner, the family and MPHA must sign a statement of family responsibility. The statement of family responsibility must contain all family obligations including the family's participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will result in termination of assistance. If the unit at the time of such termination is an excepted unit, the exception continues to apply to the unit as long as the unit is made available to another qualifying family.

MPHA will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement.

Set-aside for qualifying families

In leasing units in a multifamily building pursuant to the PBV HAP, the owner must set aside the number of excepted units made available for occupancy by qualifying families.

MPHA will refer only qualifying families for occupancy of excepted units.

Additional, local requirements promoting partially assisted buildings

MPHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. For example, MPHA may:

Establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building,

Determine not to provide PBV assistance for excepted units, or

Establish a per-building cap of less than 25 percent.

Description of supportive services

Supportive housing services include but are not necessarily limited to:

- a private apartment;
- a service coordinator to help residents arrange for services;

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- access to support services 24 hours a day, as needed; or case management and support services;
- personal care services;
- housekeeping and laundry assistance;
- grocery shopping;
- transportation;
- social activities;
- medication reminders and assistance;
- companions;
- help with chores;
- personal finance and household budget counseling;
- access education, training, and/or job counseling; or
- on-site day care to enable parents to work or attend school.

Tenant Screening [24 CFR 982.255]

MPHA has no responsibility or liability to the owner or any other person for the family's behavior or suitability for tenancy. MPHA does not screen PBV applicants for family behavior or suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. An owner may consider a family's background with respect to such factors as:

Payment of rent and utility bills;

Caring for a unit and premises;

Respecting the rights of other residents to the peaceful enjoyment of their housing;

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

Compliance with other essential conditions of tenancy.

Upon written request, MPHA will provide all owners with the following applicant information (if known):

The family's current and prior address, as shown in MPHA's records, and

The name and address of the landlord at the family's current and any prior address.

MPHA will provide the family with a written copy of MPHA's policy on providing information to owners.

The protections for victims of domestic violence, dating violence, and stalking in 25 CFR, part 5, subpart L apply to PBV tenant screening.

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Vacancies [24 CFR983.254]

The owner must promptly notify MPHA of any vacancy or expected vacancy in a contract unit. After receiving the owner's notice, MPHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies.

MPHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancies. In the event that any contract units have been vacant for a period of 120 or more days since the owner notice of vacancy, MPHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

PBV Family's Right to Move [24 CFR 983.260]

The PBV Family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to MPHA) in accordance with the lease.

If the family has elected to terminate the lease in this manner, MPHA must offer the family the opportunity for continued tenant-based rental assistance in the form of assistance under the Housing Choice Voucher program or other comparable tenant-based rental assistance.

Before providing notice to terminate the lease, a family must contact MPHA to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If a voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, MPHA will give the family priority to receive the next available opportunity for continued tenant-based rental assistance. MPHA will maintain a list of these families.

If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

Determining the Rent to Owner [24 CFR 983.301, 983.302]

The amount of the initial rent to owner is established at the beginning of the HAP contract term. When determining the initial rent to owner, MPHA will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. At its discretion, MPHA may use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract.

The owner may request a redetermination of the rent to owner, in writing, 30 days prior to the annual anniversary of the HAP contract. MPHA must also redetermine the rent to owner when there is a five percent or greater increase in the published FMR.

When redetermining the rent to owner, MPHA will use the most recently published FMR and the utility allowance schedule in effect at the time of the redetermination.

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MPHA will not approve and the owner will not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with HQS. The owner will not receive any retroactive increase of rent for any period of noncompliance with HQS.

Except for certain tax credit units, the rent to owner must not exceed the lowest of:

An amount determined by MPHA, not to exceed 110 percent of the applicable fair market rent for the unit bedroom size minus any utility allowance;

The reasonable rent; or

The rent requested by the owner.

For MPHA-owned units, the initial rent to owner and the annual redetermination of rent at the annual anniversary of the contract are determined by an independent entity approved by HUD in accordance with §983.59. MPHA will use the rent to owner established by the independent entity.

CHAPTER 20
FAMILY SELF SUFFICIENCY

[24 CFR 984]

A. GOALS AND OBJECTIVES

The overall goal of our Family Self Sufficiency (FSS) Program is to promote economic self-sufficiency through the coordination and delivery of existing community services. Based on our past experience with the Project Self-Sufficiency Program, MPHA knows that there are both societal and individual barriers to break down before a family can leave long-term poverty. MPHA also knows that an effective FSS Program requires a mixture of creativity and flexibility, in addition to accountability, for both the family and service providers.

B. FSS PROGRAM OBJECTIVES

The overall plan of the FSS Program is to achieve the following objectives:

Introduce FSS to all families who are eligible to participate with the understanding that the commitment to change "begins from within."

Implement a needs assessment to identify each family's strengths and barriers. Establish interim goals that lay the foundation for the common final goals of each family joining FSS.

MPHA's standards for completion of the FSS Contract of Participation is found in the FSS Action Plan.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

<u>AAF</u>	Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.
ACC	Annual Contributions Contract
BR	Bedroom
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules, which are first published in the Federal Register and define and implement a statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
ELI	Extremely low income
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act - Social Security taxes
FmHA	Farmers Home Administration
FMR	Fair Market Rent
FY	Fiscal Year
FYE	Fiscal Year End
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by the term Total Tenant Payment (TTP).
GR	Gross Rent
HAP	Housing Assistance Payment
HAP Plan	Housing Assistance Plan
HCDA	Housing and Community Development Act

Glossary

HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or their designee.
HURRA	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
IG	Inspector General
IGR	Independent Group Residence
IPA	Independent Public Accountant
IRA	Individual Retirement Account
MSA	Public Statistical Area established by the U.S. Census Bureau PHA
PHA	Public Housing Agency
PMSA	A Primary Public Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RFAT	Request for Approval of Tenancy
RFP	Request for Proposals
RRP	Rental Rehabilitation Program
SRO	Single Room Occupancy
SSMA	Standard Statistical Public Area. Has been replaced by MSA, Public Statistical Area.
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
URP	Utility Reimbursement Payment
VAWA	Violence Against Women Act

Glossary

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Housing Choice Voucher Program tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION. In portability, the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ADA. Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION. The effective date of the first HAP Contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ANNIVERSARY DATE. The date of Renewal. For every contract entered the anniversary date will be the 1st of the month in which the contract was started (i.e. initial move in date June 22, 2003, the Anniversary Date is June 1).

ANNUAL BUDGET AGENCY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program.

ANNUAL INCOME. The anticipated total Annual Income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

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APPLICANT. (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

"AS-PAID" STATES. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS. (See Net Family Assets.)

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Housing Choice Voucher Program assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236-market rent or 120% of the BMIR rent, respectively.

BUDGET AGENCY. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget Agency is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

CERTIFICATE. A Certificate issued by the PHA under the Housing Choice Voucher Program pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

CERTIFICATE PROGRAM. Pre-merger rental certificate program.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a co-head and a spouse and; a co-head is never a dependent).

COMMON SPACE. In shared housing: Space available for use by the assisted family and other occupants of the unit.

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

CONTINUOUSLY ASSISTED. An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

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CONTRACT. (See Housing Assistance Payments Contract.)

COOPERATIVE. (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: See 24 CFR 982.619.

COVERED FAMILIES. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program 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 the assistance.

DATING VIOLENCE. [As defined in Section 40002 of the Violence Against Women Act of 1994] means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members, which enable a family member (including the disabled family member) to work.

DISABLED FAMILY. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more Live-In Aides.

DISABLED PERSON. See Person with Disabilities.

DISPLACED PERSON/FAMILY. A person or family 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 under federal disaster relief laws.

DOMESTIC VIOLENCE. [As defined in Section 40002 of the Violence Against Women Act of 1994] includes (i) felony or misdemeanor crimes of violence committed by a current or former spouse of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabiting with or has co-habited with the victim as a spouse; (iv) 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 (v) 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.

Glossary

DOMICILE. The legal residence of the household head or spouse as determined in accordance with State and local law.

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

ECONOMIC SELF-SUFFICIENCY PROGRAM. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603 (c).

ELDERLY FAMILY. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more Live-In Aides.

ELDERLY HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and well-being.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the Administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889, which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

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EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of median income for an area if HUD finds such variations are necessary due to unusually high or low family incomes.

FAIR HOUSING ACT. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

FAMILY. "Family" includes but is not limited to:

A family with or without children (the temporary absence of a child from the home due to placement in foster care shall, not be considered in determining family composition and family size);

An elderly family;

A near-elderly family;

A displaced family

The remaining member of a tenant family; and

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family. For purposes concerning waiting list preferences, family does not include a single person.

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

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FAMILY RENT TO OWNER. In the voucher program, the portion of the rent to owner paid by the family.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

FMR/EXCEPTION RENT. The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

FOSTER CHILD CARE PAYMENT. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

FULL-TIME STUDENT. A person who is attending school or vocational training on a full-time basis (is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

FUNDING INCREMENT. Each commitment of budget Agency by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GENERATION. The average period between the birth of the parents and the birth of their offspring.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

GROUP HOME. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any Live-In Aide).

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the

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development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Housing Choice Voucher Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

- A payment to the owner for rent to owner under the family's lease.
- An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP Contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING CHOICE VOUCHER PROGRAM. Housing Choice Voucher Program of the United States Housing Act of 1937 (42 U.S.C. 14370).

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD. The Department of Housing and Urban Development.

HUD REQUIREMENTS. HUD requirements for the Housing Choice Voucher Program. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when assets exceed \$5,000.

IMPUTED WELFARE INCOME. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

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INCOME. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

INCOME FOR ELIGIBILITY. Annual Income.

INDIAN. Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

INDIAN HOUSING AGENCY (IHA). A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

INITIAL PHA. In portability, the term refers to both:

- A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and
- A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

INITIAL PAYMENT STANDARD. The payment standard at the beginning of the HAP Contract term.

INITIAL RENT TO OWNER. The rent to owner at the beginning of the HAP Contract term.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION. The area in which the PHA has Agency under State and local law to administer the program.

LANDLORD. This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LARGE VERY LOW INCOME FAMILY. Prior to the 1982 regulations, this meant a very low-income family which included six or more minors. This term is no longer used.

LEASE. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP Contract between the owner and the PHA. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP Contract between the cooperative and the PHA.

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LEASE ADDENDUM. For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

LIVE-IN AIDE. A person who resides with an elderly person or disabled person and who is determined to be essential to the care and well-being of the person, is not obligated for the support of the person, and would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low-income families.

MANUFACTURED HOME. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type. See 24 CFR 982.620 and 982.621.

MANUFACTURED HOME SPACE. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Housing Choice Voucher Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Housing Choice Voucher Program Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total medical expenses, including medical insurance premiums, which are anticipated during the period for which Annual Income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of Annual Income.

MERGER DATE. October 1, 1999.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

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MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the Annual Income.

MUTUAL HOUSING. Included in the definition of COOPERATIVE.

NATIONAL. 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. A family whose 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.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition.

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

NONCITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OVER-FMR TENANCY (OFTO). In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. A family that has been admitted to the PHA's program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP Contract executed by the PHA for the family (First day of initial lease term).

PAYMENT STANDARD. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

PERSON WITH DISABILITIES. A person who has a disability as defined in 42 U.S.C 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration,

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substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Housing Choice Voucher Program tenant-based assistance outside the jurisdiction of the initial PHA.

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

PROCESSING ENTITY. Entity responsible for making eligibility determinations and for income reexaminations. In the Housing Choice Voucher Program, the "processing entity" is the "responsible entity."

PROGRAM. The Housing Choice Voucher Program tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

PUBLIC ASSISTANCE. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

PUBLIC HOUSING AGENCY (PHA). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

- A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):
- Any other public or private non-profit entity that was administering a Housing Choice Voucher Program tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or
- For any area outside the jurisdiction of a PHA that is administering a tenant-

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based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

REASONABLE RENT. A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

RECEIVING PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

RECERTIFICATION. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported. There are annual and interim recertifications.

REGULAR TENANCY. In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER. The total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RESIDENCY PREFERENCE. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESIDENT ASSISTANT. A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Housing Choice Voucher Program housing assistance and who is essential to these individuals' care or well-being. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Housing Choice Voucher Program assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY. For the public housing and Housing Choice Voucher Program tenant-based assistance, project-based - certificate assistance and moderate rehabilitation program, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Housing Choice Voucher Program, the responsible entity means the Housing Choice Voucher Program owner.

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SECRETARY. The Secretary of Housing and Urban Development.

SECURITY DEPOSIT. A dollar amount that can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

SHARED HOUSING. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type.

SINGLE PERSON. A person living alone or intending to live alone.

SPECIAL ADMISSION. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

SPECIAL HOUSING TYPES. See Subpart M of 24 CFR 982, which states the special regulatory requirements for SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

SPOUSE. The husband or wife of the head of the household.

STALKING. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and to place under surveillance with the intent to kill, injure, harass or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person. For purposes of this definition, "Immediate Family Member" means a spouse, parent, brother, sister or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood or marriage.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

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- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Housing Choice Voucher Program Housing Assistance Payments Program pursuant to Housing Choice Voucher Program of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;
- A Public Housing Project.

SUBSIDY STANDARDS. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

SUBSTANDARD UNIT. Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING. Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

TENANCY ADDENDUM. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

TENANT. The person or persons (other than a live-in-aide) who execute the lease as lessee of the dwelling unit.

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Housing Choice Voucher Program owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

THIRD-PARTY VERIFICATION. Independent verification of income and/or expenses by contacting the individual income/expense source(s) supplied by the family. The verification documents must be supplied directly to the independent source by the PHA and returned directly to the PHA from the independent source.

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

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UNIT. Residential space for the private use of a family.

UNUSUAL EXPENSES. Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UPFRONT INCOME VERIFICATION. The verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals.

UTILITIES. Utilities include water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract Rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of a reasonable consumption of such utilities and other services for the unit by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthy living environment.

UTILITY REIMBURSEMENT. In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

UTILITY REIMBURSEMENT PAYMENT. In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VACANCY LOSS PAYMENTS. (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

VIOLENCE AGAINST WOMEN ACT. Defined in Section 6(u)(3) of the United States Housing Act of 1937, as amended, (42 U.S.C. §1437d(u)(3)) and in the Violence Against Women Act Policy.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations

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are necessary because of unusually high or low family incomes. This is the income limit for the pre-merger certificate and voucher programs.

VETERAN. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released there from under conditions other than dishonorable.

VIOLENT CRIMINAL ACTIVITY. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

VOUCHER (rental voucher). A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the program.

VOUCHER HOLDER. A family holding a voucher with an unexpired term (search time).

VOUCHER PROGRAM. The Housing Choice Voucher program.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

WAITING LIST ADMISSION. An admission from the PHA waiting list.

WELFARE ASSISTANCE. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. for the FSS Program (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SDI, or Social Security.

WELFARE RENT. This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

- If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.
- If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

WELFARE-TO-WORK (WTW) FAMILIES. Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WT. funding for the same purpose).

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C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.

EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS. The documents which must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

NATIONAL. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

NONCITIZEN. A person who is neither a citizen nor national of the United States.

PHA. A housing Agency that operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to non-citizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

PROGRAM INTEGRITY ADDENDUM

[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD) conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families either are totally ineligible or are receiving benefits that exceed their legal entitlement.

MPHA is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained.

MPHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines MPHA's policies for the prevention, detection, and investigation of program abuse and fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will MPHA undertake an inquiry or an audit of a participating family or property owner arbitrarily. MPHA's expectation is that participating families and property owners will comply with HUD requirements, provisions of the voucher, and other program rules. MPHA staff will make every effort (formally and informally) to orient and educate all clients in order to avoid unintentional violations. However, MPHA has a responsibility to HUD, the community, and eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to MPHA's attention, to investigate such claims.

MPHA will initiate an investigation of a participating family or property owner only in the event of one or more of the following circumstances:

- **Referrals, Complaints, or Tips.** MPHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies or persons alleging that a family is in noncompliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.
- **Internal File Review.** A follow-up will be made if MPHA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review) information or facts that conflict with previous file

data, MPHA's knowledge of the family, or statements made by the family.

- **Verification of Documentation.** A follow-up will be made if MPHA receives independent verification or documentation that conflicts with representations in the family's file (such as public record information or reports from credit bureaus or other agencies).

B. STEPS MPHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

MPHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants, participating families and property owners. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by MPHA clients.

Things You Should Know (HUD-1140-OIG). This program integrity bulletin (created by HUD's inspector general) will be furnished and explained to all applicants to promote understanding of program rules and to clarify MPHA's expectations for cooperation and compliance.

Briefing Session. Mandatory briefing sessions will be conducted by MPHA staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all program-briefing sessions, the family representative will be required to sign a program-briefing certificate to confirm that all rules and pertinent regulations were explained to them.

Review and Explanation of Forms. Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Participant Certification (Voucher). Head or Co-head will be required to sign a participant certification form.

C. STEPS MPHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

MPHA staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families or program property owners.

Quality Control File Reviews. Prior to initial certification and at the completion of all subsequent recertifications, five client files per Housing Specialist per month will be reviewed. At a minimum, such reviews shall examine:

- Verification of all income and deductions
- Changes in reported Social Security numbers or dates of birth

- Authenticity of file documents
- Ratio between reported income and expenditures
- Consistency of signatures with previously signed file documents
- Dates and signatures on all documents

Observation. MPHA management and occupancy staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Observations will be documented in the family's file.

Public Record Bulletins. These bulletins may be reviewed by management and staff.

State Wage Data Record Keepers. Inquiries to state wage and employment record-keeping agencies, as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Credit Bureau Inquiries. Credit bureau inquiries may be made (using a release of information form as authorization for credit and other checks) in the following circumstances:

At the time of final eligibility determination

When an allegation is received by MPHA wherein unreported income sources are disclosed

When a participant's expenditures exceed his/her reported income and no plausible explanation is given

D. MPHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

MPHA staff will encourage all participating families to report suspected abuse to the Housing Choice Voucher Program. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints, and tips will be carefully evaluated to determine whether they warrant follow-up. MPHA will not follow up on allegations that are vague or otherwise nonspecific. They will only review allegations that contain one or more independently verifiable facts.

File Review. An internal file review will be conducted to determine whether the subject of the allegation is a client of MPHA and, if so, whether or not the information reported has been previously disclosed by the family.

MPHA will then determine whether it is the most appropriate Agency to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, MPHA will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If an owner has been overpaid as a result of fraud, misrepresentation, or violation of the HAP Contract, MPHA may terminate the contract and arrange for restitution to MPHA and/or the family as appropriate.

MPHA will make every effort to recover any overpayments made as a result of owner fraud or abuse. Payments otherwise due to the owner may be debited in order to repay MPHA or the tenant, as applicable.

F. HOW MPHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If MPHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the executive director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, MPHA will use a release of information form as the written authorization from the program participant to authorize credit and other checks.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine whether the financial activity of a family conflicts with the family's reported income.

Verification of Credit. In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to MPHA's review may be interviewed.

Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records. MPHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

Interviews with Head of Household or Family Members. MPHA will discuss the allegation (or details thereof) with the head of household or family members by scheduling an appointment at the appropriate MPHA office. A high standard of courtesy and professionalism will be maintained by MPHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY MPHA

Documents and other evidence obtained by MPHA during the course of an investigation will be considered "work product" and will be kept either in the participant's file or in a separate "work file." In either case, the participant's file or work file will be kept in a locked file cabinet. Such cases under review will be discussed only among MPHA staff who are involved in the process or have information that may assist in the investigation.

H. CONCLUSION OF MPHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Program Manager. It will then be determined whether the facts indicate that a violation has occurred.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, MPHA will review the facts to determine:

- What type of violation has occurred (procedural noncompliance or fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family.
- Whether the family is eligible for continued occupancy.

J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED

Once a program violation has been documented, MPHA will propose the most appropriate remedy based upon the type and severity of the violation.

Procedural Noncompliance

This category applies when the family "fails to" observe a procedure or requirement of MPHA but does not misrepresent a material fact and there are no retroactive assistance payments owed by the family.

Examples of noncompliance violations are:

Failure to appear at a prescheduled appointment

Failure to return verification in the time period specified by MPHA warning Notice to the Family. In such cases a notice containing the following will be sent to the family:

A description of the noncompliance and the procedure, policy, or obligation that was violated.

The date by which the violation must be corrected or the procedure complied with.

The action that will be taken by MPHA if the procedure or obligation is not complied with by the date specified by MPHA.

The consequences of noncompliance.

Procedural Noncompliance - Overpaid Assistance

When the family owes money to MPHA for failure to report changes in income or assets, MPHA will issue a notice of overpayment of assistance. This notice will contain the following:

A description of the violation and the date(s).

The amount owed to MPHA.

The number of days within which a response must be received.

Acknowledgment of the family's right to disagree and to request an informal hearing along with instructions for requesting such a hearing.

Participant Fails to Comply with MPHA's Notice. If the Participant fails to comply with MPHA's notice and a family obligation has been violated, MPHA will initiate termination of assistance.

Participant Complies with MPHA's Notice. When a family complies with MPHA's notice, the staff person responsible will meet with him/her to explain and discuss the family obligation or program rule that was violated. The staff person notes to the file that compliance has been achieved.

Intentional Misrepresentations

When a participant falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by MPHA, the agency will evaluate whether or not:

The participant had knowledge that his/her actions were wrong.

The participant willfully violated the family obligations or the law.

Knowledge

This will be evaluated by determining whether the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, the briefing certificate, and the personal declaration are adequate to establish knowledge of wrongdoing.

Willful Intent

Any of the following circumstances will be considered adequate to demonstrate willful intent:

An admission by the participant of the misrepresentation

Repetition of the misrepresentation

Use of a false name or Social Security number

Admissions of the illegal action or omission by the participant to others

Omission of material facts known to the participant (e.g., employment of the participant or other household member)

Falsification, forgery or altering of documents

Uttering and certifying to statements at an interim (re)determination that are later independently verified to be false

Dispositions of Cases Involving Misrepresentations

In all cases of misrepresentations involving efforts to recover monies owed, MPHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution. If MPHA has established criminal intent and the case meets the criteria for prosecution, MPHA will:

- Refer the case for legal action, notify HUD's regional inspector general for investigation (RIGI), and terminate rental assistance.

Administrative Remedies. MPHA will:

- Terminate assistance and pursue restitution through civil litigation.
- Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with MPHA's repayment policy.