CITY OF WESTMINSTER PUBLIC HOUSING AGENCY

ADMINISTRATIVE PLAN

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

HUD Fiscal Year 2020-2021

Common Council
Gregory Pecoraro Council President
Tony Chiavacci
Ann Gilbert
Benjamin Yingling
Kevin Dayhoff
Joe Dominick– Mayor

Cindy Valenzisi – PHA Executive Director

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for the City of Westminster.

Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

The jurisdiction of the PHA is the corporate limits of the City of Westminster, excluding other HUD Section 8 programs located within the corporate limits.

A. HOUSING AUTHORITY MISSION STATEMENTTHE PHA'S MISSION IS TO SERVE CITY OF WESTMINSTER CITIZENS BY PROVIDING QUALITY HOUSING FOR THOSE IN NEED AND TO ENCOURAGE THEIR PROGRESS TOWARD SELF-SUFFICIENCY.

B. LOCAL GOALS [24 CFR 982.1]

Part I

See the PHA 5-Year Plan for the specific HUD Strategic Goals.

Part II

The PHA has the following specific goals for the program:

- To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
- To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.
- To ensure that <u>all</u> units meet Housing Quality Standards, and that families pay fair and reasonable rents.
- To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

C. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies and procedures for carrying out the Program in a manner consistent with HUD requirements and local goals and objectives contained in the Agency Plan.

The PHA is responsible for complying with all changes in HUD regulations pertaining to these programs. **If such changes conflict with this Plan, HUD regulations will have precedence.** The PHA will revise this Administrative Plan as needed to comply with changes in HUD regulations.

This Administrative Plan is a supporting document to the PHA 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: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

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

Expenditures from the Administrative Reserve (Operating Reserve) for other housing purposes shall require prior approval of the City of Westminster Mayor and Common Council for amounts over $5,000.00.

E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the PHA's local policies and procedures for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or other applicable laws. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated Annual Contributions Contract and all HUD-approved applications for program funding.

F. TERMINOLOGY

The Housing Authority of the City of Westminster dba City of Westminster Office of Housing Services is referred to as "PHA" or "Housing Authority" throughout this document.
"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

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

"Landlord" and "Owner" are used interchangeably.

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

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

The Section 8 program is also known as the Housing Choice Voucher Program.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"Failure to Provide" refers to all requirements in the first Family Obligation.

See Glossary for other terminology.

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

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

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs, on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, handicap or disability.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms are available upon request at the front desk. PHA staff will be available to assist any family that requests assistance in completing the Discrimination Complaint Form along with providing the toll-free number for the Housing Discrimination Hotline: 1(800) 669-9777.

All Housing Authority staff will be provided with fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. The Housing Authority staff will also be available to provide housing counseling services to applicants/participants/, and will be able to assist in referrals to other appropriate fair housing entities. Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments. When appropriate, fair housing posters and other material will be made available in Spanish in an effort to inform our non-English speaking clients.

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

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of this PHA to be service-directed in the administration of our housing programs and to 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 the PHA will treat a person differently than anyone else. The PHA'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 PHA Affidavit. 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 initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) 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 an impairment."

Note: This is not the same as the HUD definition used for purposes of determining eligibility for the $400 deduction for elderly and disabled families.

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, the PHA will require that a professional third party competent to make the assessment provides written verification that the person needs the accommodation due to their disability and the change is required for them to have equal access to the housing program. If the PHA finds that the requested accommodation creates an undue

administrative or financial burden, the PHA 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 the PHA (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 the PHA.

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

Reasonable accommodation will be made for persons with a disability that requires 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.

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

Verification of Disability

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

Applying for Admission

All persons who wish to apply for any of the PHA's programs must submit an application. Applications will be made available in an accessible format upon request from a person with a disability.

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

The application is to be completed in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability.

Applicants will then be interviewed by PHA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time, if applicable. The full application will also include questions asking all applications whether reasonable accommodations are necessary.

I. TRANSLATION OF DOCUMENTS

The Housing Authority has bilingual staff to assist non-English speaking families in Spanish and translates documents into Spanish for the Housing Choice Voucher Program.

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

- Number of applicants and participants in the jurisdiction, who do not speak English and speak another language.
- Estimated cost to PHA per client of translation of English written documents into the other language.
- The availability of local organizations to provide translation services to non-English speaking families.
- The availability of bi-lingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

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

- Selection from the Waiting List
- Reasonable Rent
- Determination of Adjusted Income
- Utility Allowance Schedule
- HQS Quality Control Inspections
- HQS Enforcement
- Expanding Housing Opportunities
- Payment Standards
- Annual Re-examinations
- Correct Tenant Rent Calculations
- Pre-Contract HQS Inspections
- Annual HQS Inspections
- Lease-up
- Family Self-Sufficiency Enrollment and Escrow Account Balances

Supervisory quality control reviews will be performed by the PHA Program Supervisor or other qualified housing staff, 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 and will be consistent with HUD requirements.

K. RECORDS FOR MONITORING PHA PERFORMANCE

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

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/PHA will release family information.

The PHA's policy regarding release of information is in accordance with Federal, State, and local laws which may restrict the release of family information. Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the PHA Program Supervisor or Executive Director.

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

M. FAMILY OUTREACH

The PHA will publicize and disseminate information to make known the availability of housing assistance and related services, for very low income families on a regular basis. The PHA will publicize the availability and nature of housing and program assistance for very low income families through public service announcements, press releases, and/or display ads in the local newspapers. As with any employment recruitment effort, community marketing steps will be taken so that both assisted and unassisted families are aware of the opportunity. These recruitment efforts relate to any PHA employment opportunity.

These marketing steps will include advertising in the local newspapers, posting advertising notices in our office as well as other public places, and using local radio entities to market our programs and employment opportunities.

The PHA will communicate the status of housing and service-related program availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing and program assistance. This will include, but is not limited to, the FSS Program.

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

The PHA 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.

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. The PHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

The PHA maintains a list of landlords who have a number of rental units and are willing to rent to Section 8 Voucher holders and is available upon request.

The PHA has active participation in a community based organization(s) comprised of private property and apartment owners and managers.

The PHA periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the PHA's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

Chapter 2 - ELIGIBILITY FOR ADMISSION

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

INTRODUCTION

This Chapter defines both HUD and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply.

The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information as needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(B)]

The PHA accepts applications only from families whose head or spouse is at least 18 years of age or if the head or spouse is considered able to legally enter into a lease or rental agreement under Maryland State Law.

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

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

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

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors. Eligibility factors, other than income, could be verified before the family is placed on the waiting list. Income will be verified when the family gets near the top of the waiting list and it is anticipated that assistance will be available within the next 60-days.

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. The PHA 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 foster 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 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 is 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. Persons under 18 years of age who qualify under State law can be recognized as head of household.

Spouse of Head of Household

Spouse means the husband or wife of the head. For proper application of the Non-citizens Rule, the definition of spouse is the marriage partner whom, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

An individual in the household, who is equally responsible for the lease with the Head of Household, can be a co-head. 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 the PHA 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).

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

- 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 Non-Citizen 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 may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor. 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 and the hours they are needed.

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

Verification must be provided to document that there is the need for live-in assistance rather than a need that can be met by daily help that would not need to be present during the night time hours. [24 CFR 982.316]

At any time the PHA 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 or violent criminal activity; or
- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Split Households 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, the PHA 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;
- The role of domestic violence in the split;

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

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

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "domestic violence" preference.

The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home (See "Establishing Preferences and Maintaining the Waiting List" chapter).

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.

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 must have an Annual Income at the time of admission that does not exceed the **very low-income** limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low-income category, which is a family whose income does not exceed 50 percent of the area median income.

The PHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

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

- A very low-income family;

- A low-income family that is continuously assisted under the 1937 Housing Act;
- An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within **60** days of voucher issuance. Programs include any housing federally assisted under the 1937 Housing Act;
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511;
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project;
- A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173;
- A low-income family or moderate income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165;
- A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

To determine if the family is income-eligible the PHA compares the Annual Income of the family to the applicable income limit for the family's size. Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

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. Eligible families who do not have proof of legal residence in the Corporate City limits at the time of initial application, will not be approved to exercise portability upon initial issuance of voucher.

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

Families are required to provide verification of Social Security Numbers for all family members prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

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

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.

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.

Non-citizen students

For this eligibility requirement please refer to the HUD definition in the non-citizen regulations at 24 CFR 5.522.

Ineligible Appeals

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

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

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past **five** years.

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 the PHA including Form HUD-9886.

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

- The family must not have violated any family obligation during a previous participation in the Section 8 program for five years prior to final eligibility determination. (If the violation was failure to give the PHA notice before moving the PHA will consider the circumstances under which the failure occurred, such as fleeing a domestic violence situation, before enforcing this reason for denial of admission.)
- The PHA 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 the PHA or another PHA as a result of prior participation in any federal housing program prior to admission and would have to enter into a repayment agreement and keep it current while on the waiting list.

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

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

G. TENANT SCREENING [24 CFR 982.307)]

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

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

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families based on their tenancy histories, including such factors as:[24 CFR 982.307(a)(3)]

- 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.

The PHA will give the owner:

- The family's current and prior address as shown in the PHA's records; and
- The name and address (if known by the PHA) of the landlord at the family's current and prior address.

The PHA will provide the owner the following other information, orally and based upon documentation in the PHA's possession concerning the family, only if the owner provides a written release signed by the family:

- Information about the family's criminal or drug-related activity;
- Information about the family's eviction history;
- Information about any damage to rental units caused by the family, or
- Information about drug-trafficking by family members.

The same types of information will be supplied to all owners, who inquire with the PHA. The PHA will advise families how to file a complaint if they have been discriminated against by an owner. The PHA will

advise the family to make a Fair Housing complaint. The PHA may also report the owner to HUD (Fair Housing/Equal Opportunity).

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

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.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(B)]

Admission to the program may not be based on:

- Where a family lives prior to admission to the program;
- Where the family will live with assistance under the program;
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Discrimination because a family includes children;
- Whether a family decides to participate in a family self-sufficiency program; or
- Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3 - APPLYING FOR ADMISSION [24 CFR 982.204]

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement 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 however the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made.

Applicants will be placed on the waiting list in accordance with this Plan.

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of application taking is to permit the PHA 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 the PHA's programs must complete a written application form 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 Section 8 rental assistance will be given the opportunity to complete an application. Applications will be mailed to interested families upon request. The family may apply online at westgov.com

The application process will involve two phases. The first is the "initial" application for assistance. This first phase results in the family's placement on the waiting list based upon self-declaration of income. The application will be dated, time-denoted, and referred to the PHA's eligibility office where it will be maintained until such time as it is needed for processing.

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

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

Opening the Waiting List

The PHA will utilize the following procedures for opening the waiting list (should the waiting list ever be closed for a period of time):

- When the PHA opens the waiting list, the PHA will advertise through public notice in the local community newspaper.

- The notice will contain:
  - The dates, times, and the locations where families may apply;
  - The programs for which applications will be taken;
  - A brief description of the program;
  - A statement that public housing residents must submit a separate application if they want to apply for Section 8;
  - 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 the PHA address and telephone number, how to submit an application and information on eligibility requirements.

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.

If the waiting list is open, the PHA 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

The PHA may stop applications if there are enough applicants to fill anticipated openings for the subsequent **24** months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next **24** months. The PHA will give at least **seven** days' notice prior to closing the list.

When the period for accepting applications is over, the PHA will add the new applicants to the list by separating the new applicants into groups based on preferences and ranking applicants within each group by date and time of application.

Limits on Who May Apply

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

When the application is submitted to the PHA it establishes the family's date and time of application for placement order on the waiting list.

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

The PHA will utilize a written application form. 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. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format. Translations will be provided for non-English speaking applicants in Spanish.

The purpose of the “Initial” application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The application will contain full and complete information, including but not limited to:

- Applicant name;
- Family Unit Size (number of bedrooms the family qualifies for under PHA 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;
- Any preference status;
- Targeted program qualifications.

Duplicate applications, including applications from a segment of an applicant or participants household, will not be accepted. Ineligible families **will not** be placed on the waiting list. Families may be considered ineligible if they have been previously terminated within five years and or owe money to a federally subsidized Housing Authority.
The information on the application **will** be verified at the time of processing the application. .

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

Applicants are required to inform the PHA of changes in address. Applicants are also required to respond to requests from the PHA to update information on their application and to determine their continued interest in assistance. All changes and responses to requests to update information must be within 14 calendar days of the change or request.

If after a review of the 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 date that assistance may be offered, and will further explain that the estimated date is subject to factors such as turnover and available funding. This notification is considered to be a receipt of their application and should be retained for future reference.

This written notification of preliminary eligibility will be:

- Given to the applicant at the time the application is submitted; or
- Mailed to the applicant by first class mail; or
- Distributed to the applicant in the manner requested as a specific accommodation.

If the family is determined to be ineligible based on the information provided in the application, the PHA 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.

The waiting list will be updated periodically. Phone inquiries as to the position on the list will only be accepted on the third Wednesday and Thursday of each month.

E. TIME OF SELECTION [24 CFR 982.204]

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

Based on the PHA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on completion of verifications and file processing, and attending a briefing.

F. COMPLETION OF A FULL APPLICATION

All preferences claimed on the application will be verified whenever the family claims a preference. The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

After the preference is verified, when the PHA is ready to select applicants, applicants will be required to complete an Affidavit For Rental Assistance Form prior to the full application interview, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicant will then be interviewed by PHA staff to review the information on the Affidavit for Rental Assistance form.

The family will be denied and a full application **will not** be accepted if the family gives false information or omits information on any document to determine eligibility or for continued assistance under the Housing Choice Voucher Program.

Requirement to Attend Interview

The PHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is

complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs which may be available.

All adult family members are required to attend the interview, and sign the housing application and/or the subsequent forms. Exceptions may be made for students attending school out of state or for family members for whom attendance would be a hardship.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule, the PHA will reject the application. Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than seven days from the original appointment date.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review.

All adult members must sign the HUD Form 9886, Release of Information, the application form and all supplemental forms required by the PHA, the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the PHA.

Every adult household member must sign a consent form to release criminal records and to allow PHAs to receive records and use them in accordance with HUD regulations.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information. If needed, the PHA will send a follow-up written notification for the needed document(s) or information and will be given a reasonable number of days to supply the information. If the information is not supplied in this time period, the PHA will provide the family a notification of denial for assistance.

G. VERIFICATION [24 CFR 982.201(E)]

Information provided by the applicant will be verified, using the verification procedures 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. Verifications may not be more than 60 days old at the time of issuance of the Voucher.

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

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA, and the current eligibility criteria in effect. If the family is determined to be eligible, the PHA will contact the family to attend a briefing. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4 - 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 the PHA'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. This chapter explains the local preferences which the PHA has adopted to meet local housing needs, defines the eligibility criteria for the preferences, and explains the PHA's system of applying them. By maintaining an accurate waiting list, the PHA 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]

The PHA uses a single waiting list for admission to its Section 8 tenant-based assistance program. Applicants will be selected from the PHA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan. The PHA will maintain information that permits proper selection from the waiting list.

B. SPECIAL ADMISSIONS [24 CFR 982.54(D)(E), 982.203]

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission 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. The PHA 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 Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- 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 Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

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

C. LOCAL PREFERENCES [24 CFR 982.207]

The PHA uses the following local preference system:
The waitlist will be managed by date, time and preference. Only one preference will be considered to be active on the waitlist. All prefernces must be verified.
Preferred status on the waiting list will be given to the following ranking preferences:

- Persons who are working at least 20 hours per week at minimum wage within the City of Westminster corporate boundaries and is verified , and meet income requirements per HUD definition;
- Persons who are living within the City of Westminster corporate boundaries and meet income requirements per HUD definition; (a lease from an owner or agent will be required for verification purposes.)
- Persons who are elderly (age 62 or older) or have a disability and living within the City limits.
- Persons who are living in a sponsored homeless shelter in the City and are receiving case management from the shelter programs sponsored by Human Services Programs of Carroll County.
- Victims of domestic violence.
    - *Domestic violence* means actual or threatened violence by a member of a household directed at him/herself or another member of his/her household. The domestic violence should have occurred recently or be of a continuing nature. The definition of recent for this purpose would mean within a six month period. An applicant may qualify for a *preference for vic*tims of domestic violence if the applicant:
    - Vacated a unit because of officially (police or courts) documented domestic violence;
    - Lives in a unit with a person who engages in violence documented as above. The applicant must certify that the person who engaged in the violence does not reside with the applicant family unless the PHA gives advance written approval.

Note: Only one preference will be allowed.

Treatment of Single Applicants

Singles Preference

Single applicants who are elderly, disabled, or displaced will be given a selection priority over all “Other Single” applicants regardless of preference status. "Other Singles" denotes a one-person household in which the individual member is not elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one-person elderly, disabled or displaced family regardless of local preferences.

All families with children and families who include an elderly person or a person with a disability [24 CFR 100.80] shall be given a selection priority over all other applicants.

D. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, the PHA applies its Section 8 new admissions to families whose income does not exceed 30 percent of the area median income. HUD refers to these families as "extremely low-income families."

E. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION [24 CFR 982.207]

At the time of application, an applicant's entitlement to a local preference may be made on the following basis:

- The PHA will verify all preference claims at the time they are made.

The PHA will re-verify a preference claim if the PHA feels the family's circumstances have changed at time of selection from the waiting list. If the preference verification indicates that an applicant does not qualify for the preference the applicant will be returned to the waiting list without the local preference and given an opportunity for a meeting. If, at the time the family applied the preference claim was the only reason for placement of the family on the list and the family cannot verify their eligibility for the preference as of the date of application, the family will be removed from the list.

F. EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(D)(3)]

If HUD awards a PHA program funding that is targeted for specifically named families the PHA will admit these families under a Special Admission 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. The PHA 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 Indian housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
- 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 Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

G. TARGETED FUNDING [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission are identified by codes in the automated system.

H. 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 the PHA in writing when their circumstances change.

When an applicant changes a preference, s/he will be placed on the waiting list in the appropriate order determined by the newly-claimed preference.

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

Other Housing Assistance [24 CFR 982.205(b)]

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing. The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- Refuse to list the applicant on the PHA waiting list for tenant-based assistance;
- Deny any admission preference for which the applicant is currently qualified;
- Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the PHA selection policy; or
- Remove the applicant from the waiting list.

However, the PHA may remove the applicant from the waiting list for tenant-based assistance if the PHA has offered the applicant assistance under the voucher program.

I. ORDER OF SELECTION [24 CFR 982.207(E)]

The PHA'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.

Local Preferences

Local preferences will be used to select families from the waiting list. The PHA has selected the following system to apply local preferences:

- All local preferences will be treated equally except as noted above (C. LOCAL PREFERENCES [24 CFR 982.207]) for Family Unification Program vouchers. The preference can only accept one referral a year, per family.

Among Applicants with Equal Preference Status

Among applicants with equal preference status, the waiting list will be organized by date and time of application.

J. FINAL VERIFICATION OF PREFERENCES [24 CFR 982.207]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the PHA will obtain necessary verifications of preference at the interview and by third party verification.

K. PREFERENCE DENIAL [24 CFR 982.207]

If the PHA denies a preference, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review with the Housing Services Manager. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

L. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(C)]

The Waiting List will be purged when necessary 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 that failure to respond within 30 days will result in the applicant's name being dropped from the waiting list. An extension of 30 additional days to respond will be granted, if requested prior to the expiration of the 30 day time period and needed as a reasonable accommodation for a person with a disability.

If the applicant did not respond to the PHA request for information or updates because of a family member's disability and the applicant requests reasonable accommodation due to the disability, the PHA will reinstate the applicant in the family's former position on the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.
If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Manager determines there were circumstances beyond the person's control.

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

INTRODUCTION

HUD guidelines require that PHA's 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 the PHA's procedures when a family's size changes, or a family selects a unit size that is different from the Voucher size.

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

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. 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.

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Minimum Number Persons in Household	Maximum Number Persons in Household
0 Bedroom	1	1
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

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

* One bedroom will generally be assigned for each two family members. The PHA 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.

1. The subsidy size standard will permit at least one bedroom or living/sleeping room for each two persons.
2. Spouses, or domestic partners, shall be assigned one bedroom.
3. Children of opposite sex shall be assigned one bedroom until one of the children reaches age ten (10).
4. Families may request the subsidy size standard of a smaller size than is required by the above standards provided there is at least one bedroom or living/sleeping room for each two persons.
5. Unborn children will not be included in the size of the household, except in the case of a single pregnant woman.

6. Foster children will be included in determining unit size only if they will be in the unit for more than six (6) months.
7. Live-in attendants will generally be provided a separate bedroom.
8. 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 or school.

If a family who is being issued a new Voucher or a Move Voucher has children of the opposite sex who will be attaining the age for separate bedrooms within the initial search time of the Voucher (60 days), the PHA will issue the larger Voucher size at Briefing.

B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(A) & (B) 8]

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

Request for Exceptions to Subsidy Standards

• The family may request a larger sized voucher than indicated by the PHA's subsidy standards. Such request must be made in writing within 14 days of the PHA's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.
• The PHA will not issue a larger voucher due to additions of family members other than by new birth, adoption, marriage, or court-awarded custody.
• Requests based on health related reasons must be verified by a PHD.

PHA Error

If the PHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size at the time of discovery, unless the family is already under a Voucher Lease. If the family is under a Voucher Lease, the correction will be made at the next annual recertification.

Changes for Applicants

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

Changes for Participants

The members of the family residing in the unit must be approved by the PHA. 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 the PHA within **10** days. The above referenced guidelines will apply. Additions to the family may be allowed to reside with the participant but the voucher size will not be increased

Under-housed Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the PHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit. The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under housed in an accessible unit.
- If a family requires the additional bedroom because of a health problem which has been verified by the PHA.
- The PHA and family have been unable to locate a unit within 60 days.

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

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

- Subsidy Limitation: The family unit size as determined for a family under the PHA's subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the *lower of*:
  1. The payment standard amount for the family unit size (aka Voucher size); or
  2. The payment standard amount for the unit size (actual bedroom 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 or the voucher size, whichever is less.
- The approved utility allowance schedule will be provided to families upon request when the proposed area and unit type is known that the family is seeking. The utility allowance is based the voucher size of the family or the actual unit size the family selected, whichever is lower.

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

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

INTRODUCTION

The PHA will use the methods 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. The PHA's policies in this Chapter address those areas which allow the PHA 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 monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated 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. Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions. HUD has five allowable deductions from Annual Income:

1. Dependent Allowance: $480 each for family members (other than the head, co-head, or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. Elderly/Disabled Allowance: $400 per family for families whose head or spouse is 62 or over or disabled.
3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
4. Reasonable Child Care Expenses: Deducted for the care of children under age 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. 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.

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 six months 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 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, the PHA 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, the PHA 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 24 CFR §§5.617, 960.255

Once a family member is determined to be eligible for the EID, the 24–calendar month period starts;

 If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;

 During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);

 During the first 12–calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50 percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family member's baseline income);

 The EID benefit is limited to a lifetime 24-month period for the qualifying family member;

 At the end of the 24 months, the EID ends regardless of how many months were "used."

The earned income disallowance is limited to a lifetime 24-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 child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase in exclusions from income shall not be used in determining the cap for child care deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 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:

- 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 6 months 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)

The PHA 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 5.630]

"Minimum rent" is **$50.00.** 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 Minimum Rent

The PHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The PHA will review all relevant circumstances brought to the PHA's attention regarding financial hardship as it applies to the minimum rent. The following section states the PHA'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)

Criteria for Hardship Exception

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

1. The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance, including a family with a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996. Loss of TANF due to sanctions will not be considered under this provision as a reason for a hardship exception.
2. The family would be evicted as a result of the imposition of the minimum rent requirement;
3. The income of the family has decreased because of changed circumstances, including loss of employment, death in the family, or other circumstances as determined by the PHA or HUD.

PHA Notification to Families of Right to Hardship Exception

The PHA 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.

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

The PHA 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.

The PHA 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 qualify the family for an exception.

Suspension of Minimum Rent

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

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

- Covered by statute
- Temporary or long term

"Suspension" means that the PHA must not use the minimum rent calculation until the PHA 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 the PHA determines that the minimum rent hardship exception is not covered by statute, the PHA will impose a minimum rent retroactive from the time of suspension.

Temporary Hardship

If the PHA 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.

The PHA 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 the PHA" chapter for Repayment agreement policy).

Long-Term Duration Hardships

If the PHA determines that there is a qualifying long-term financial hardship, the PHA 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

The PHA will reimburse the family for any minimum rent charges which took effect after October 21, 1998 that qualified for one of the mandatory exceptions. If the family is owed a retroactive payment, the PHA will provide reimbursement in the form of a cash refund to the family. The PHA's definition of a cash refund is a check made out to the family.

D. DEFINITION OF TEMPORARILY / PERMANENTLY ABSENT [24 CFR 982.54(D)(10), 982.551]

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

"Temporarily absent" is defined as away from the unit for more than 30 days. Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

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

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for 60 days in a 12 month period**,** except as otherwise provided in this Chapter.

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 90 calendar days, the family member will not be considered permanently absent.

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

Absence Due to Full-time Student Status

Full time students who attend a credited school away from the home will be treated in the following manner:
A student (other than head of household or spouse) who attends a credited college or university away from home but lives with the family during the semester break may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.

Absence due to Incarceration

If the sole member is incarcerated for more than 30 days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 days in a twelve month period.

The PHA will determine if the reason for incarceration is for drug-related or violent criminal activity. If it is determined to be for drug-related or violent criminal activity, the family may be terminated from assistance.

Absence of Children due to Placement in Foster Care

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

If the time period is to be greater than six (6) months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the PHA's subsidy standards.

Absence of Entire Family

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

Families are required both to notify the PHA before they move out of a unit and to give the PHA information about any family absence from the unit. Families must notify the PHA if they are going to be absent from the unit for more than 14 consecutive days. If the absence of the unit will be ongoing and consistently

If the entire family is absent from the assisted unit no more than 30 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

Any member of the household would be considered permanently absent if he or she is away from the unit 60 days in a 12 month period, except where otherwise provided for medical reason noted in this chapter.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA policies.

If it is determined that the family is absent from the unit for more than 30 days without approval of the owner and the PHA, the PHA will not continue assistance payments and the family will lose their Voucher.

HUD regulations require the PHA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence" means that no family member is residing in the unit.

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days limit.

If the absence which resulted in termination of assistance was due to a person's disability, and the PHA can verify that the person was unable to notify the PHA in accordance with the family's responsibilities, and if funding is available, the PHA may reinstate the family as an accommodation if requested by the family, as long as the period was within 180 days.

Caretaker for Children

If and when the circumstances are that 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, the PHA 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 will be transferred to the caretaker.
If the appropriate agency cannot confirm the guardianship status of the caretaker, the PHA will review the status at weekly intervals.

If custody or legal guardianship has not been awarded by the court, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status. The PHA will 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. When the PHA approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The PHA will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases. If a member of the household is subject to a court order that restricts him/her from the home for more than three months, the person will be considered permanently absent.

Visitors

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

Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose, including receipt of mail, that is not explicitly temporary shall be construed as permanent residence. 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 the PHA will terminate assistance since prior approval was not requested for the addition to the household.

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 30 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 PHA

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

If the family does not obtain prior written approval from the PHA and the owner, any person the family has permitted to move in will be considered an unauthorized household member. **This will be grounds for termination of the family's assistance.**

An interim reexamination will be conducted for any 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 the PHA

Reporting changes in household composition is both a HUD and a PHA requirement. If a family member leaves the household, the family must report this change to the PHA, in writing, within 10 days of the change and certify as to whether the member is temporarily absent or permanently absent. The PHA will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy.

E. AVERAGING INCOME

If, at the time of admission or at any subsequent re-examination, it is not feasible to anticipate a level of income over the next 12 month period, the income anticipated for a shorter period may be annualized. (Example: family is receiving unemployment and even though the unemployment claim will not go for a

full 12 month period, the weekly benefit will be anticipated for the full 52 weeks in a 12 month period. The family will then need to request an Interim recertification when their unemployment stops.)

Those families, who work at seasonal employment and may or may not collect unemployment for part of the year, will have their anticipated annual income based upon the prior year's income according to their federal income tax records and/or the associated W-2's, 1099 forms, etc. Interim re-certifications will not be made based upon the layoff of seasonal workers as the family's annual income has already taken those layoff periods into account.

If the family does not do seasonal work and has no income, they will be required to complete monthly income reports until they have a stable income source. If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

F. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to complete a written certification every month until they have reported a stable source of income.

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, the PHA will allow the family to choose to:

1. Either remove the member that is confined to a hospital or nursing home from the family composition and remove that member's income and any medical deductions that were associated with that member; or
2. Include the member in the family and include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment. Any contribution or gift received every three months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than $100 per year. 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, the PHA will inquire of the family regarding contributions and gifts.

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. It is the family's responsibility to supply a certified copy of the divorce decree or any court action regarding child support. If the amount of child support or alimony received is less than the amount awarded by the court, the PHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount. The PHA will accept verification that the family is receiving an amount less than the award if:

1. The PHA receives verification from the agency responsible for enforcement or collection that covers the past twelve months to document the amount received by the family; or
2. 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. The PHA will also have to receive documentation of the amount actually received over the past twelve months or a minimum of three months which would then be annualized to determine the 12 month anticipated income.

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 unemployment or welfare assistance are counted as income.

Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments 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:

The PHA will calculate retroactively.

Retroactive Calculation Methodology

The PHA will go back to the date the lump-sum payment was received and would have been included in the family’s income for an Interim recertification. The family must pay this "retroactive" amount to the PHA in a lump sum or enter into an acceptable Repayment Agreement if the family is unable to pay in a lump sum. The standard requirements for the Repayment Agreement are that the family must make a minimum down payment, as determined by the PHA, and then monthly payments that would provide for a full repayment of amounts owed within a twelve month period.

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)]

The PHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The PHA 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 are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

The PHA's minimum threshold for counting assets disposed of for less than Fair Market value is $500.00. If the total value of assets disposed of within a one-year period is less than $500.00, they will not be considered an asset.

M. CHILD CARE EXPENSES [24 CFR 5.603]

Reasonable child care expenses as determined by the PHA, for children under 13 may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, only after-hours care can be counted as child care expenses. The determination of deductions for child care expenses is based on the following guidelines:

- Child care to work: The maximum child care expense allowed must be less than 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. The daycare allowance would not include the cost of daycare when the person enabled to work is not 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.

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

Anticipating medical expenses for the following twelve month period will be based upon the past twelve months experience for those eligible families, unless they can provide clear documentation of an expense the family will have during the next twelve months that is of a different type than previously experienced. If such an anticipated expense was included in the last recertification, it will not again be used in a subsequent recertification. Such expenses will only be used for one annual recertification and will not be duplicated, regardless of whether the family still owes money on the medical item.

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. Travel expenses for medical reasons will be allowed in the manner contained in IRS Publication 502.

Nonprescription medicines must be doctor-prescribed 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. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

Proration 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.

P. INCOME CHANGES RESULTING FROM WELFARE PROGRAM

REQUIREMENTS

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

- fraud by a family member in connection with the welfare program; or
- failure to participate in an economic self-sufficiency program; or
- non-compliance with a work activities requirement.

However, the PHA 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

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

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

- amount and term of specified welfare benefit reduction for the family;
- reason for the reduction; and
- subsequent changes in term or amount of reduction.

Cooperation Agreements

The PHA does not have a written cooperation agreement in place with the local welfare agency which assists the PHA in obtaining the necessary information regarding welfare sanctions. The PHA has taken a proactive approach to creating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 and public housing residents.

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. The PHA'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.

The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television. The PHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (cost of tenant-supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air conditioning or are wired for tenant installed air conditioners [24 CFR 982.517]. City of Westminster, Maryland does not qualify for an allowance for air conditioners based upon this provision and only would be provided due to a reasonable accommodation for a person with a disability.

The PHA 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 will be provided to families upon request when the proposed area and unit type is known that the family is seeking. The utility allowance is based the voucher size of the family or the actual unit size the family selected, whichever is lower.

Where families provide their own range and refrigerator, the PHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over the standard life duration for the appliance. The standard life of a range used is 15 years. The standard life of a refrigerator used is 15 years.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], the PHA may pay the balance of the housing assistance payment to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the PHA elects to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

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

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the PHA. PHA staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

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

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

The PHA will verify information through the five methods of verification acceptable to HUD in the following order:

1. HUD-Sponsored Enterprise Income Verification (EIV) System
2. Third-Party Written
2. Third-Party Oral
3. Review of Documents
4. Certification/Self-Declaration

The PHA will allow two weeks (14 days) for return of third-party verifications and one week (7 days) to obtain other types of verifications before going to the next method. The PHA will document the file as to why third party written verification was not used using the appropriate RIM (Rental Income Monitoring) slip(s).

EXCEPTION: In cases where financial institutions cannot or will not provide third party verifications in a timely fashion that is within one week (7 days) of request, the PHA may accept other forms of verifications.

The PHA will make at least two (2) attempts to obtain third-party written verification before dropping to a lower version of verification. For example, the employee will send the first third-party verification request, wait seven (7) days and then will send a follow up request and wait seven (7) more days. After the expiration of the 14 days, the PHA will then take steps to obtain the applicable lower levels of verifications available.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. For participants, verifications will be valid for 90 days from date of receipt.

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. 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 will be considered third party written verifications. Verifications faxed by the PHA direct to the third party and faxed by the third party directly back to the PHA will also be considered third party written verifications, provided that the family had no access to the verification document.

The PHA will accept verifications in the form of computerized printouts, delivered by the family, from the following agencies:

1. Social Security Administration
2. Unemployment Compensation Board
3. County Courts

Third-Party Oral Verification

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

Review of Documents

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within two weeks (14 days), the PHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant/participant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Transaction log entry of document viewed or person contacted.

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

1. Printed wage stubs
2. Computer print-outs from the employer

3. Signed letters (provided that the information is confirmed by phone)
4. Other documents noted in this Chapter as acceptable verification

The PHA will accept faxed documents as long as there does not appear to be any alterations to the verification(s)**.**

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third party verification. The PHA will not delay the processing of an application beyond 14 days because a third party information provider does not return the verification in a timely manner.

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 means a notarized statement or affidavit to certify income or expenses that he/she has reported.

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 the BASIC AUTHORIZATION FOR RELEASE OF INFORMATION as well as any specific authorization forms when information is needed that is not covered by the HUD 9886 Authorization for Release of Information/Privacy Act Notice.

Copies of the two standard release forms are included in both the program applications packets as well as the standard Recertification Packet.

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

C. COMPUTER MATCHING

For some time, HUD has conducted a computer matching initiative to independently verify resident income. HUD can access income information and compare it to information submitted by PHAs on the 50058 form. HUD can disclose Social Security information to PHAs, but is precluded by law from disclosing Federal tax return data to PHAs. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the PHA (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified the PHA in writing that the family has been advised to contact the PHA. HUD will send the PHA a list of families who have received "income discrepancy" letters.

D. ITEMS TO BE VERIFIED [24 CFR 982.516]

1. All income not specifically excluded by the regulations.
2. Full-time student status including High School students who are 18 or over.
3. Current assets including assets disposed of for less than fair market value in preceding two years.
4. Child care expense where it allows an adult family member to be employed, or to actively seek employment or to further his/her education.
5. Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
6. 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.
7. Disability status for determination of allowances or deductions.
8. U.S. citizenship/eligible immigrant status
9. Social security numbers for all family members 6 years of age or older who have been issued a social security number.
10. "Preference" status as stated in Chapter 4.
11. Familial status when needed for head, co-head or spouse definition.

Verification of Reduction in Benefits for Noncompliance: The PHA will obtain third-party verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance prior to denying the family's request for rent reduction.

E. VERIFICATION OF INCOME [24 CFR 982.516]

This section defines the methods the PHA will use to verify various types of income.

Employment Income

The PHA's Employment Verification Form request the employer to specify the:

Date Hired
Status of Employment, i.e. full-time, part-time, etc.
Number of Work Weeks/Year
Job Title and Amount/Frequency of pay
Average Hours per week worked
Estimated income from overtime, tips, bonus pay expected during next 12 months

Acceptable methods of verification include, in this order:

1. Access made available through the HUD-sponsored EIV On-Line System (when available).
2. Written employment verification form completed by and mailed/faxed back from the employer.
3. Verbal employment verification received directly from the employer.

4. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
5. W-2 forms plus income tax return forms.
6. Notarized self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.
7. If, at any time, it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized. Those families, who work at **seasonal employment** and may or may not collect unemployment compensation for part of the year, will have their anticipated annual income based upon the prior year's income according to their federal income tax records and/or associated W-2s, Form 1099s, etc. In these cases, these applicable tax records shall be considered appropriate verifications.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income. In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements. Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

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

Acceptable methods of verification include, in this order:

1. Access made available through the HUD-sponsored EIV On-Line System and use of TASS Statements (when available).
2. Written pension benefit verification form completed by and mailed/faxed back from the employer.
3. PHA may call SSA or pension provider, with the family on the line, to obtain current benefit information.
4. SSA/pension award or benefit notification letter(s) prepared and signed by the providing agency.
5. PHA may accept notarized statement or affidavit, from the family, that declares monthly Social Security or pension benefits.

Unemployment Compensation

Acceptable methods of verification include, in this order:

1. Access made available through the HUD-sponsored EIV On-Line System or via other written agreements through the local unemployment collection agency.
2. Written verification completed by and received directly from the unemployment compensation agency. 3. PHA may review an original benefit notice or unemployment check stub(s) from the unemployment collection agency.
4. PHA may accept notarized statement or affidavit, from the family, that declares weekly unemployment benefits.

5. If, at any time, it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized. Those families, who work at seasonal employment and may or may not collect **unemployment compensation** for part of the year, will have their anticipated annual income based upon the prior year's income according to their federal income tax records and/or associated W-2s, Form 1099s, etc. In these cases, these applicable tax records shall be considered appropriate verifications.

Welfare Payments or General Assistance

Acceptable methods of verification include, in this order:

1. Written benefit verification completed by and received directly from the local social service agency.
2. PHA may call the local social service agency to obtain current benefit information.
3. PHA may review an original award notice or print-out from the local social service agency provided by the family.
4. PHA may accept notarized statement or affidavit, from the family, that declares monthly welfare benefits.

Alimony or Child Support Payments

Acceptable methods of verification include, in this order:

1. Written benefit verification, completed by and received directly from either the Support Services or the Child Support/Alimony payer, specifying current monthly Child Support or Alimony benefits.
2. PHA may call Support Services or the Child Support/Alimony payer to obtain current benefit information.
3. PHA may review a copy of a separation agreement or a divorce/court decree stating amount and type of support and payment schedules. A print-out from Support Services will also suffice.
4 A notarized letter from the person paying the support.

If payments are irregular, the PHA will use the available verification and calculate an annualized benefit amount that will then be used to determine Annual Income.

Net Income from a Business

Acceptable methods of verification include, in this order:

1. Written verification completed by and received directly from sources identified by the family to obtain income information.
2. PHA may call the source to obtain current income information.
3. PHA may review and accept IRS and financial documents from prior years and use this information to anticipate the family's income for the next 12 months. Acceptable methods of IRS verification include IRS Form 1040, including:
    - Schedule C (Small Business)
    - Schedule E (Rental Property Income)

- Schedule F (Farm Income)

4. Audited or unaudited financial statement(s) of the business.
5. Documents such as manifests, appointment books, cash books, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) 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.
6. Family's self-certification as to net income realized from the business during previous years.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business. In the event the family is providing day care services, and being paid through DHS, the family shall provide as many copies of payment sheets for all customers as possible for the last 12 months. In the event a customer is paying a co-pay, the PHA shall obtain written income verification directly from the customer when possible. If necessary, verbal verification of co-pay will suffice.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the PHA will require written verification from 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.

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

If income from child care services is terminated, a third-party verification will be sent to the parent whose child was cared for.

Recurring Gifts

Acceptable methods of verification include, in this order:

1. Notarized statement, from income provider, stating the regularity (dates) and the amount of the financial gift.
2. Notarized statement, from the family, stating the regularity (dates) and the amount of the financial gift.

Athletic Scholarship Financial Aid (aid specifically meant for housing)

Acceptable methods of verification include, in this order:

1. Written verification, from the registrar's office or other school official, detailing scholarship monies specifically meant for housing.

Zero ($0) Income Status

Families claiming to have no income will be required to submit Notarized monthly certifications until such time as they obtain a regular source of income. Increases in household income, for families

claiming $0 Income Status, shall be required to report any increase in income within 7 days of the increase. Failure to comply may result in termination.

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 (Exception: college athletic scholarship monies specifically meant for housing).

Verification of full time student status includes:

1. Written verification from the registrar's office or other school official.
2. School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

F. INCOME FROM ASSETS [24 CFR 982.516]

Savings Account Interest Income and Dividends

If the PHA has documentation from the financial institution that the financial institution will charge the account holder for any verification provided directly by the financial institution, the PHA will not attempt the third party verification due to the charge to the account holder. The PHA will directly drop down to the other levels of verification primarily going to documents provided by the family.
Acceptable methods of verification include, in this order:

1. PHA verification forms completed by the financial institution.
2. PHA may call the financial institution to obtain the asset and income verifications.
3. Documents provided including 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. This will also include the actual review of passbook and/or checking account statements, CDs, etc. as long as it does not appear that alterations have been made and balances are within the specified verification timeframes.
4. The PHA may accept a notarized statement or affidavit to declare the balances of assets and income.

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.

G. VERIFICATION OF ASSETS

Family Assets

The PHA 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). If the PHA has documentation from the financial institution that the financial institution will charge the account holder for any verification provided directly by the financial institution, the PHA will not attempt the third party verification due to the charge to the account holder. The PHA will directly drop down to the other levels of verification primarily going to documents provided by the family. ***As well, in cases where financial institutions cannot/will not provide third party verifications in a timely fashion, that is within one week (7 days) of request, the PHA may accept other forms of verifications.***

Acceptable methods of verification include, in this order:

1. PHA verification forms, letters, or documents from a financial institution or broker.
2. PHA may call the financial institution to obtain the asset and income verifications.
3. Documents provided including broker's statements showing value of stocks or bonds credited the family. This will also include the actual review of passbook and/or checking account statements, CDs, etc. as long as it does not appear that alterations have been made and balances are within the specified verification timeframes. Also included will be real estate tax statements if the approximate current market value can be deduced from assessment and copies of closing documents showing the selling price and the distribution of the sales proceeds.
4. 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 Re-certifications, the PHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or 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.

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

Child Care Expenses [24 CFR 5.611(a)(4)]

Child care expenses are defined as amounts anticipated to be paid, by the family, for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed or to further his/her education and only to the extent such amounts are not reimbursed. In cases of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Acceptable methods of verification include, in this order:

1. Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.
2. 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.
3. The PHA must also obtain the family's certification as to the purpose of the child care expenses as well as whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses [24 CFR 5.611(a)(3)(i)]

Disabled or elderly families (Head or spouse is elderly or disabled) are entitled to a deduction for unreimbursed medical expenses. The allowable medical expense is that portion that exceeds three percent (3%) of annual income.

If the family is eligible for the medical expense deduction, the medical expenses of **ALL** family members may be counted. Families who claim medical expenses will be required to certify 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 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.

This can be obtained via the standard TASS Statement or other applicable award letter.

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 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. PHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

The PHA will use applicable definitions and mileage rates set forth in the Internal Revenue Service (IRS) Publication 502 (or any applicable IRS update notifications) for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities [24 CFR 5.611(a)(3)(ii)]

Families are entitled to a deduction for unreimbursed medical expenses to cover care attendants and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the family member who is a person with a disability) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older, and who are able to work because of such attendant care or auxiliary apparatus. The allowable disability assistance expense is that portion that exceeds three percent (3%) of annual income.
In All cases, verifications will include:

 Written certification from a reliable, knowledgeable professional PHD 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.

Families who claim disability expenses will be required to certify as to whether or not any expense payments have been, or will be, reimbursed by an outside source.

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.

Verification of Disabled Family Deduction [24 CFR 5.611(a)(2)]

A disabled family is defined as a family whose head, spouse, or sole member is a person with a disability. It may also include two or more persons with disabilities living together, or one of more persons with disabilities living with one or more live-in aides (See 24 CFR 5.403).

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician (such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker), using the HUD language as the verification format. To verify the statement from the applicable diagnostician, the PHA will send the Disability Certification Form to the diagnostician.

Verification of Elderly Family Deduction [24 CFR 5.611(a)(2)]

An elderly family is defined as a family whose head, spouse, or sole member is a person who is at least 62 years of age (See 24 CFR 5.403).

Verification of elderly family status shall be made by self certification via date of birth.

Verification of Dependent Deduction [24 CFR 5.611(a)(1)]

A dependent is defined as a member of the family (except foster children and foster adults) other than the family head, co-head, spouse, who is under 18 years of age, or is a person with a disability or a full-time student (See 24 CFR 5.603).

Sources of verification for dependent/full-time student status shall include the following:

1. Self-declaration of household composition and dependents under the age of 18 years.
2. Written verification, directly from educational institution, that includes name and address of institution, dates of enrollment, total number of hours registered for full-time students over 18 years of age. “Full-Time” status consists of 12 or more attempted credit hours per semester.
3. Where reasonable doubt exists, the PHA may require birth certificates, adoption papers, and/or court custody documents for verification of dependents.

I. VERIFYING NON-FINANCIAL FACTORS [24 CFR 5.617(B)(2)]

Familial Relationships including Marital Status

Family certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification. In the event there is a question of a familial relationship, the family will be required to complete the PHA's Statement of Familial Relationship form.

If the PHA has reasonable doubt regarding a familial relationship or family composition, verifications may be required (if applicable). Examples include:

1. Verification of relationship:
    - Official identification showing names.
    - Birth Certificates.
    - Baptismal certificates.
    - Marriage or civil licenses.
2. Verification of guardianship is:
    - Court-ordered documentation showing custody

Verification of Permanent Absence of Family Member or Change in Family Composition

If an adult member, who was formerly a member of the household is reported permanently absent by the family, or a change in family composition, the PHA will consider the certification of family composition included in the Recertification Packet as verification of said change in family composition.

If the PHA has reasonable doubt regarding a change in family composition, verifications may be required (if applicable). Examples include:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- A permanent Order of Protection/Restraining Order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, drivers license, or lease or rental agreement, if available.
- Statements from other agencies, such as social services, or a written statement from the landlord or manager that the adult family member is no longer living at that location.
- If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.
- School records indicating change of residence for children.

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 their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

The PHA will not require citizens to provide documentation of citizenship. Self- declaration will be accepted.

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

Non-citizens 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. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA 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 certify to their status on the Citizenship Certification Form signed by the head of household or spouse when applicable.

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

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

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at time of application. The PHA 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 prior to approval of addition to household.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the receiving PHA must conduct the determination.

Extensions of Time to Provide Documents

The PHA will not grant an extension of time 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 (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-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 of eligible immigration. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

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

Verification of Social Security Numbers [24 CFR 5.216]

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

Verification of benefits or social security number from Social Security Administration

The PHA New family members will be required to produce their social security card or provide the substitute documentation together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the PHA.

If an applicant or participant is able to disclose the social security number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the PHA. The applicant/participant or family member will have an additional 30 days to provide proof of the social security number. If they fail to provide this documentation, the family's assistance will be terminated. In the case of an individual at least 62 years of age, the PHA may grant an extension for an additional 60 days to a total of 90 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

Medical Need for Larger Unit

A written certification that a larger unit is necessary due to medical conditions or needs must be obtained from a reliable, knowledgeable and licensed professional.

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

Local Preferences

Involuntary Displacement

Families who claim they are being or have been displaced due to either a federally declared disaster or due to government action: written verification by the displacing unit or agency of government, verification by FEMA, or by a service agency such as the Red Cross.

Families who claim they are being or have been displaced due to domestic violence and that they qualify for the local preference:

- The family must certify that the abuser will not return to the household without the advance written approval of the PHA. Before giving approval, the PHA will require verification of the following:
- Statement from social worker, psychologist, or other professional familiar with the abuser that he/she has received counseling/treatment and is unlikely to continue the abuse.
- Statement from local law enforcement agency that no complaints have been filed since the date of the preference approval.
- Families who claim they have been or are about to be displaced to avoid reprisals for providing information to assist police in a criminal investigation.
- Certification of threat assessment by a law enforcement agency
- Oral or written recommendation from law enforcement agency or HUD.
- Families who claim to be displaced by hate crimes.
- Written statement from law enforcement agency, HUD, Fair Housing or other agency responsible for non-discrimination advocacy. Statement should contain approximate number of occurrences and date of last occurrence.

- Displacement by HUD disposition of a project: Written verification from HUD.

Chapter 8 - VOUCHER ISSUANCE AND BRIEFINGS [24 CFR 982.301, 982.302]

INTRODUCTION

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit.

Families are provided sufficient information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA 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, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(D), 982.54(D)(2)]

When funding is available, the PHA will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that the PHA stays as close as possible to fully utilizing the funding provided by HUD. The PHA performs a monthly review of electronic information on units leased and dollars spent to determine whether applications can be processed, and the number of vouchers that can be issued.

The PHA may over-issue vouchers only to the extent necessary to meet leasing goals based upon the historic “find rate” for Voucher holders. Provided the PHA does not experience a funding reduction from HUD without advance notice, all vouchers which are over-issued will be honored. If the PHA finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

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

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups as much as possible. Individual briefings will be provided, as necessary, due to language barriers or disability issues. Families who attend group briefings and still have the need for individual assistance will be referred to the appropriate case manager.

Briefings will generally be conducted in English but will also be provided in Spanish, as needed.

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.

The PHA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing.

Applicants who fail to attend two scheduled briefings, without prior notification and approval of the PHA, may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their home, 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. The family is provided with the following information and materials at the time of the voucher briefing:

- The term of the voucher, and the PHA 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 the PHA determines the payment standard for a family; how the PHA determines total tenant payment for a family and information on the payment standard. Utility allowance schedules are available upon request when the location area and type of dwelling proposed is known. How the PHA determines the maximum allowable rent for an assisted unit, including the rent reasonableness evaluation process.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information includes an explanation of how portability works.
- The City of Westminster Housing Authority Tenancy Addendum, which includes the HUD required tenancy addendum and must be included in the lease.
- The Request for Tenancy Approval (RTA) form that the family must use to request approval of their tenancy and a description of the procedure for completion of the form to request approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.
- The HUD pamphlet on lead-based paint entitled Protect Your Family From Lead in Your Home.

 Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The PHA will also include the pamphlet "Fair Housing: It's Your Right" and/or other information about fair housing laws and guidelines.
 A list of landlords or other parties willing to lease to assisted families or help in the search and/or known units available for the voucher size issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.
 If the family includes a person with disabilities, notice that the PHA will provide assistance in locating accessible units and/or a list of available accessible units known to the PHA.
 The family obligations under the program.
 The grounds for which the PHA may terminate assistance for a participant family because of family action or failure to act.
 PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
 Information explaining how portability works, including a list of neighboring housing agencies, available upon request, with contact information for use by families who move under portability.
 The HUD form, The Housing Assistance Payments Contract (HAP Contract) Section 8 Tenant-Based Assistance Housing Choice Voucher Program, for the owner's information and signature.
 Requirements for reporting changes between annual re-certifications**.**

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

C. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The PHA will give participants a copy of HUD Form 903 to file a complaint and will provide assistance with completion of the form if needed.

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 following conditions:

- Security deposits charged by owners may not exceed those charged to unassisted tenants or the maximum prescribed by Maryland State law.
- 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. TERM OF VOUCHER [24 CFR 982.303, 982.54(D)(11)]

During the briefing session each household will be issued a voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. It

does not constitute admission to the program, which occurs when the lease and contract become effective.

Expirations

The voucher is valid for a period of at least sixty calendar days from the date of issuance. The family must submit a Request for Tenancy Approval (RTA) and Lease within the sixty-day period unless an extension has been granted by the PHA. If the voucher holder is eligible to use Portability to transfer to another housing authority's jurisdiction and the family has requested to use Portability to transfer, the voucher will be issued, or extended as applicable, for a term that would be a full 120 days.
If the voucher has expired, and has not been extended by the PHA 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. The PHA will only issue one voucher per year to each family.

Suspensions

When a Request for Approval of Tenancy is received, the PHA will not deduct the number of days required to process the request from the 60 day term of the voucher.

Extensions

A family may request an extension of the voucher time period. The request must be submitted in writing. All requests for extensions must be received prior to the expiration date of the voucher. Extensions are permissible at the discretion of the PHA up to a maximum of an additional 30 days primarily for these reasons:

- The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the initial sixty-day period and the family is not unduly restricting their search by seeking only single-family units or specific areas or locations. A accurate and completed search record provided by the Housing Authority is required. Verification may be done.
- The existence of extenuating circumstances, such as hospitalization or a family emergency for an extended period of time, which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.
- The family was experiencing difficulty in finding a unit due to disability accessibility requirements or large size (four or larger) bedroom unit requirement.

In addition, the PHA may extend the term up to an additional 30 days 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. If the family needs an extension in excess of 60 days, the PHA will extend the voucher term for the amount of time reasonably required for said reasonable accommodation.
All extensions must be approved by the Manager of Housing Services.

Assistance to Voucher Holders

Families who require additional assistance during their search may contact the PHA Office to request assistance. Voucher holders will be notified at their briefing session that the PHA maintains a rental listings and regularly updates the listing of available units. They are advised that they can make an appointment during open office hours to check the rental listings. Upon request, the PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing. The families are required to keep a search record from the beginning in order that they may have such documentation in case they need an extension.

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

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the PHA shall follow the factors outlined to determine which of the families will continue to be assisted:

1. If only one portion of the family has either minor children or an elderly or disabled person, that portion of the family shall continue to receive assistance in the program, regardless of who remains in the unit. If the portion of the family remaining in the unit will not continue to receive assistance, the Voucher and the Voucher Contract will be terminated in accordance with the terms of the Voucher Contract. The portion of the family to continue receiving assistance will be given the assistance once the current Voucher Contract has been terminated.
2. If both portions of the family have either minor children or an elderly or disabled person, that portion of the family remaining in the Voucher-assisted unit shall continue to receive assistance in the program. If the family has not yet leased a unit and both portions of the family have minor children or an elderly or disabled person, the PHA will make the determination taking into consideration whether domestic violence was involved in the breakup and whether there is a recommendation from other social service professionals.
3. If both portions of the family agree in writing which portion of the family shall continue to receive assistance, the PHA will follow the family's wishes.
4. If a court determines the disposition of property between members of the family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination.

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the PHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

VAWA - The PHA acknowledges that a victim of domestic violence, dating violence or stalking may have an unfavorable history that would warrant denial under the PHA's policies. Therefore, if the PHA makes a determination to deny admission to an applicant family, the PHA will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity

to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence or stalking.

G. 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 the PHA 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;
- The minor is considered able to legally enter into a lease or rental agreement under Maryland State Law, or;
- The PHA 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(ren) for an indefinite period.

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

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

INTRODUCTION [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that can be leased within the funding provided by HUD. The PHA'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 the PHA, or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This chapter defines the types of eligible housing, the PHA'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)]

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 RTA in the form and manner required by the PHA. The RTA must be signed by both the owner and voucher holder.

The PHA will not permit the family to submit more than one RTA at a time. The PHA will review the proposed lease and the RTA documents to determine whether or not they are approvable. The request will be approved if:

- The unit is an eligible type of housing.
- The unit meets HUD's Housing Quality Standards and any additional criteria as identified in this Administrative Plan.
- The rent is reasonable.
- The security deposit is approvable in accordance with any limitations in this plan.
- The proposed lease complies with HUD and PHA 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.

Disapproval of RTA

If the PHA determines that the request cannot be approved for any reason the landlord and the family will be notified verbally with a follow-up in writing if the family and the owner cannot agree to revisions, which would allow approval. The PHA will instruct the owner and family of the steps or revisions that are necessary to approve the request.

When, for any reason, an RTA is not approved, the PHA will furnish another RTA form to the family so that the family can continue to search for eligible housing.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]

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

- All structure types can be utilized;
- Manufactured homes where the tenant leases the mobile home and the pad;
- Units owned (but not subsidized) by the PHA following HUD-prescribed requirements;
- Units owned by the City of Westminster but not the PHA.

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 (only allowed due to reasonable accommodation). A family may lease in and have an interest in a cooperative housing development.

The PHA may not permit a voucher holder to lease a unit which is receiving project based Section 8 assistance or any duplicative rental subsidies.

C. LEASE REVIEW [24 CFR 982.308]

The PHA 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 RTA.

The family and owner must enter a written lease for the unit. If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises the lease must be in such standard form (plus the HUD-prescribed tenancy addendum). If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA provided model lease (plus the HUD-prescribed tenancy addendum). The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

1. The names of the owner and tenant, and;
2. The address of the unit rented (including apartment number, if any), and;
3. The term of the lease (initial term and any provisions for renewal), and;
4. The amount of the monthly rent to owner, and;

5. The utilities and appliances to be supplied by the owner, and;
6. The utilities and appliances to be supplied by the family.

The City of Westminster Housing Authority Tenancy Addendum, including the HUD prescribed tenancy addendum, must be included in the lease word-for-word before the lease is executed.

The owner's lease (for dwellings built before 1978) 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 owner may evict family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drugs 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;
- Any violent criminal activity on or near the premises by a tenant, household member, or guest;
- Any violent criminal activity on the premises by any other person under the tenant's control.

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

- 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 (high misdemeanor in NJ);
- Violating a condition of probation or parole imposed under Federal or State law.

House rules of the owner may be attached to the lease as an addendum provided they are approved by the PHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Actions before Lease Term

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

- The PHA has inspected the unit and has determined that the unit satisfies the HQS;

- The PHA has determined that the rent charged by the owner is reasonable;
- The landlord and the tenant have executed the lease, including the HUD prescribed tenancy addendum;
- The PHA has approved leasing of the unit in accordance with program requirements.
- All assisted units must be licensed by the City of Westminster's Office of Housing Services Rental Housing License program.

When the gross rent exceeds the applicable payment standard for the family, the PHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

D. SEPARATE AGREEMENTS

Not all separate agreements are 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. In addition if the landlord is exchanging work or goods for rent and the landlord or tenant fails to report that information to the HA, that would be considered an illegal side agreement, and a violation of the HCV program.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and non-payment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the PHA.

Any appliances, services or other items, 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 and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease. The PHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

E. INITIAL INSPECTIONS [24 CFR 982.305(A) & (B)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

F. RENT LIMITATIONS [24 CFR 982.507]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the PHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the PHA.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the PHA will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the PHA will continue processing the RTA and lease provided the owner puts the revised agreement in writing. If the owner does not agree on the rent to owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(B), 982.54(D)(7)]

In accordance with HUD requirements the PHA will furnish prospective owners with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the landlord at the family's current and prior address. The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The PHA will inform owners that it is the responsibility of the landlord 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.

A statement of the PHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The PHA will provide the following information, based on documentation retained in the PHA files and only upon the owner providing written release signed by the prospective tenant:

- Eviction history
- Criminal or drug-related activity (if known to the PHA)
- Damage to rental units
- Drug trafficking by family members

The information will be provided for up to the last three years, if known to the PHA. The information will be provided orally. Only the Housing Services Manager or the Occupancy Specialist may provide this information. The PHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See chapter on "Owner Disapproval and Restriction."

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(C)]

The family and the owner will execute the lease agreement, and the owner and the PHA will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The PHA will retain a copy of the lease, the original of the contract, and copies of all other signed documents.

The PHA 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 is executed.

The following PHA representatives are authorized to execute a HAP contract on behalf of the PHA: the Housing Services Executive Director and Manager.

Owners must complete the PHA's Rental registration application form. if they have an appointed agent to handle their rental property. A management agreement between the owner and the agent can be submitted in cases where the Property owner requests the agent to conduct business and sign on his behalf. Owners must provide the current address of their residence (not a Post Office box) unless the property is managed by a real estate property management company. The owner's current address will be compared to the subsidized unit's address.

Owners must provide an employer identification number or social security number and complete a W-9 IRS form for the PHA. The owner or agent must provide a home telephone number and business number if applicable.

The property owner and unit must comply with all Local, Federal and State requirements for each assisted unit including lead paint certifications.

The unit must be licensed under the Westminster Rental Housing License Program and must supply all required MDE lead certifications

A family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA may waive this restriction as a reasonable accommodation for a family member who is a person with a disability, If the family can demonstrate that there are no other properties or situations that will allow for the reasonable accommodation.

L. CHANGE IN OWNERSHIP

See "Owner Disapproval and Restriction" chapter.

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

INTRODUCTION

The City of Westminster Property Maintenance Code, Chapter 119 of the City Code, is used to determine if all program housing meets Housing Quality Standards (HQS) performance requirements. In addition to meeting the performance requirements, the housing must meet the acceptability criteria. HUD may approve acceptability criteria variations in the following purposes:
Variations which apply standards in local housing codes or other codes adopted by the PHA.
Acceptability criteria variations may only be approved by HUD pursuant to paragraph (a)(4)(ii) of this section if such variations either:

(A) Meet or exceed the performance requirements ; or
(B) Significantly expand affordable housing opportunities for families assisted under the program. .
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.

The PHA will inspect each unit under contract at least annually. The PHA will also have an inspection supervisor/ Manager or an alternate inspector perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. This chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA 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 PHA requirements.

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

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The PHA will not promote any additional acceptability criteria likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

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 tenant or owner (whomever is responsible for the utilities according to the RTA) to have the utilities turned on. The inspector will schedule a re-inspection after being notified by the owner or tenant that the utilities have been turned on.

If the tenant is responsible for supplying the stove and/or the refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. The PHA may conduct a re-inspection.

There are four types of inspections the PHA will perform:

1. Initial/Move-in conducted upon receipt of Request for Tenancy Approval;
2. Annual conducted within twelve months of the last annual inspection;
3. Special/Complaint at request of owner, family or an agency or third-party;
4. Quality Control.

B. INITIAL HQS INSPECTION [24 CFR 982.401(A), 982.305(B)(2)]

Timely Initial HQS Inspection

The PHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15-days after the family and the owner have submitted a RTA. The same 15-day clock will be suspended during any period when the unit is not available for inspection. The PHA will include "date unit available for inspection" on the RTA form. This date will determine whether the PHA will be required to meet the same 15-day requirement or whether the PHA will suspend the same 15-day period because the unit is not available for inspection until after the same 15-day period.

For file audit purposes the PHA will note in each tenant file the date on which the unit first became available for inspection according to information obtained from the RTA or from the owner or the tenant. PHA staff will document any delays in completion of the initial HQS inspection. The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan;
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the family and the owner will be advised to notify the PHA once repairs are completed. On an initial inspection, the owner will be given up to 30-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 up to three re-inspections for repair work to be completed. If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(A)]

The PHA conducts an inspection in accordance with Housing Quality Standards at least annually. The annual inspection is scheduled with the Landlord and Family between 120-90 days prior to the anniversary date of the lease and prior to the date inspected in the prior year, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible. Examples of

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

Inspections will be conducted on business days only and during normal business hours unless arrangements are made with the individual inspector and approved by the Housing Services Manager.

The PHA will notify the family in writing at least three days prior to the inspection.

Inspection:

The Landlord and the Family is notified of the date and time of the inspection appointment by mail. The family is not required to be present in the unit but must allow access to the unit. If the Landlord is unable to be present or have an authorized representative present, they must reschedule the appointment so that the inspection is completed within 10 business days. If the landlord misses two scheduled inspection appointments the Housing Authority may terminate the Housing Assistance Contract with the Landlord and give notice to the tenant to relocate to another unit.

If the family does not allow access to the unit or refuses to allow the PHA to conduct an inspection of the unit the PHA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

Re-inspection:

When the family is responsible for the failed items in the unit, the family is provided with a notice of the failed items, the family is provided a notice of the re-inspection appointment by phone or by mail. If the family is not at home for the re-inspection appointment, a subsequent letter will be mailed with instructions to contact the inspector within a certain time to schedule the re-inspection appointment. If the family fails to contact the inspector within the time designated, a notice of termination will be sent to the tenant and owner.
When the unit fails for items that the landlord is responsible for the landlord must repair the items within 30 days or any extension granted. If the landlord fails to make the correction the PHA may send an abatement notification. The letter will clarify that the abated HAP will not be paid retroactively and the HAP will only be paid from the date the re-inspection is completed forward, provided the unit passes HQS at the re-inspection.

The family is also notified that it is a Family Obligation to allow the PHA to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct the breach or their voucher and assistance will be terminated.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. For non-emergency items, repairs should be made within 30 days. For major repairs, inclement weather repairs or any other extenuating circumstances the Housing Services Manager may approve an extension beyond 30 days.

Rent Increases

Rent to owner increases may not be approved if the unit is in a failed condition.

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(C)]

If at any time the family or owner notifies the PHA that the unit does not meet Housing Quality Standards, the PHA will conduct an inspection. The PHA may also conduct a special inspection based on information from third parties such as neighbors or public officials. The PHA 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.

If the annual inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B)]

Quality Control inspections will be performed by the Housing Services Manager or his/her 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). The quality control sample size will consist of 5 or the first 50 inspections and 1 for every 50 or portion of 50.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401(A)]

The PHA adheres to the acceptability criteria in the program regulations with the additions described below.

Additions

Sanitary Facilities: All worn or cracked toilet seats must be replaced.

Space & Security: Any room used for sleeping must have a window or a door leading to the exterior. Bedrooms in basements or attics are not allowed unless they have adequate ventilation and emergency exit capability. All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

Thermal Environment: Any wood or pellet burning stoves must have been inspected and approved by the local authorities for the installation and must have the chimney cleaned annually. Any fireplaces being used must have the chimney cleaned annually.
Illumination and Electricity: Any electrical outlets found to have reversed connections, will be required to be corrected.

Structure and Materials: Unless the dwelling unit is a mobile home, the dwelling must have a solid foundation, free of serious defects. Mobile homes will be required to have tie downs unless they meet the conditions for the HUD-approved waiver. Those conditions include that the unit must be installed on a level lot and the mobile home must be insured. All floors must be in a finished state (no plywood).

Water Supply: Any private water supply will be required to be tested for coliform bacteria contamination and if positive, must be corrected prior to approval of the unit. Such private water supply systems will be required to be tested every five years.

Site and Neighborhood: If the dwelling is to be occupied by children under the age of 8 years of age, any readily accessible hazardous conditions, such as: a fast running creek, a deep pond, a deep canyon, a railroad track, or any other dangerous conditions, shall be discussed with the tenant family.

Smoke Detectors: All smoke detectors shall meet the requirements prescribed in Maryland State Law, which includes either being hard-wired with a hush feature or use a 10-year lithium battery and have a hush feature. All smoke detector placements must comply with NFPA 74.

Modifications

Modifications or adaptations to a unit due to 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 the tenant and landlord. PHA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

G. 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 (whoever is responsible) within 24 hours of notice by the inspector:

- Natural gas leak or fumes;
- Uninhabitable for reason such as; no water/sewer, no electricity, infestations, or flood
- Electrical problem which could result in shock or fire;
- Lack of functioning toilet or open sewage near the premises.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the PHA.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and if not repaired within a reasonable time, the HAP contract will be terminated. If the emergency repair item(s) are not corrected in the time period required by the PHA, and it is an HQS breach which is a family obligation, the PHA will terminate the assistance to the family.

Smoke Detectors

If the smoke detector is not operating properly the PHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The PHA will re-inspect the unit the following day, if possible.

If the PHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the PHA will re-inspect the unit the following day, if possible.

The PHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS and grounds for terminating family assistance.

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

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the PHA and no extension has been approved by the PHA, 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 as noted in the notice. The PHA will inspect abated units as soon as possible following the owner's notification that the work has been completed and as soon as the owner and/or tenant make the unit available for the inspection.

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. The notice of abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

Extensions for Repairs

The PHA will grant an extension in lieu of abatement in the following cases:

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs or contract for services to complete the repair and an unavoidable delay occurs.
- The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 30 days, except in delays due to climate conditions which could be up to six months. At the end of that time, if the work is not completed, the PHA will begin the abatement. If the repair is not completed within 30 days following the abatement, or any extension the contract will be terminated.

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 Proposed 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 the PHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(D)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service;
- Failure to provide or maintain family-supplied appliances;
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear;
- Disconnecting or dismantling smoke detectors, including removing batteries.

The owner is responsible for all other HQS violations. The owner is responsible for the elimination of the vermin infestation. The PHA will take into consideration how many units in the building, the proximity to another unit, if the owner has a contract with an extermination company and any other circumstances that may factor in who is responsible for the cost of the extermination. In such cases where infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis. The inspector will make a determination of owner or family responsibility during the inspection. The owner may bill the tenant for the infestation if it is the tenant who caused the infestation. The owner or tenant may appeal this determination to the Executive Director within ten days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family will be required to reimburse the Landlord.

J. 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, the PHA will require the family make any repair(s) or corrections within 30 days. If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing.

Extensions in these cases must be approved by the Housing Services Manager. 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.

All inspections shall adhere to the practices and policies that ensure that all exterior and interior components of a structure or equipment shall be maintained in good repair, structurally sound and in sanitary condition.
Examples;
Exterior: Foundations and exterior walls structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air and or water infiltration or vermin infestation. Gutters should be free from debris and be able to allow water to flow and directed away from the dwelling.
Interior: air quality, lack of means of egress, damaging the unit beyond normal wear and tear, and unsanitary conditions that may lead to infestations etc.

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 Section 8 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 Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Section 8 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. The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparable units in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the PHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to owner is limited only by rent reasonableness. The PHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The only other limitation on rent to owner is the maximum rent standard 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 to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed the PHA begins processing payments to the landlord. 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. Monthly checks will deposited directly into the owner's bank account by the 5th business day of the month once the PHA has received the monies from HUD. The HUD requirement for making rent payments is within 10 days of receipt of funds from HUD. Interim payments during the month will be issued the following month in addition to the regular payment.

Excess Payments

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must return any excess payment to the PHA. Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

Late Payments to Owners

It is a local business practice in City of Westminster for property managers and owners to charge tenants a reasonable late fee for the tenant portion of the rents not received by the owner or property manager by the due date, not withstanding any grace period which is typically 5 days past the first of the month. Any late fees must be included and identified in the rental agreement and must comply with Maryland Tenant/Landlord Laws.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The PHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all Section 8 programs.

The PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA must re-determine the reasonable rent before any increase in the rent to owner, 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.

The PHA must re-determine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by the PHA.

The owner will be advised that by accepting each monthly housing assistance payment the owner 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 the PHA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The PHA maintains and updates unit rent comparable studies in its commercial software database. Current data is based on recent lease signing within the last 2 years. The following items are included in the data used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage);

- Unit Type;
- Age of unit;
- Location;
- Amenities (bathrooms, dishwasher, garbage disposal, garage, etc.);
- Quality of Maintenance;
- Utilities.

Units that were previously unassisted that become assisted (or become owner-occupied) are noted to that effect and then will no longer be used for a comparable while the unit is assisted (or owner-occupied).

Rent Reasonableness Methodology

The commercial software is utilized to identify and use a comparable, first by the unit size and type, and then amenities. If there are no units available by the unit size and type for the largest bedroom sizes, any similar type of unit of a smaller bedroom size may be used, and rent is imputed by adding $50/month for the extra bedroom. At least three comparable units are used and the gross rents averaged to calculate the approvable comparable rent for the proposed unit.

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 regulation, and at the PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish payment standard amounts for each "unit size". The PHA may have a higher payment standard within the PHA'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.

The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

Each year HUD issues new FMR's on October 1st. Westminster City Housing office will initiate these new HUD issued FMR's on November 1st of each year in order to give proper notice to each tenant that is affected.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The PHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The PHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

The PHA will review its voucher Payment Standard amounts at least annually to determine whether more than 40% of families in a particular unit size are paying more than 30% of their annual adjusted income for rent. If it is determined that particular unit sizes in the PHA's jurisdiction have payment standard amounts that are creating rent burdens for families, the PHA will modify its payment standards for those particular unit sizes. (See also **PHA Decision Point** below for further clarification.)

Quality of Units Selected

The PHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

PHA Decision Point

The PHA will review the average percent of income of families on the program. If more than 40% of families are paying more than 30% of monthly adjusted income, the PHA will determine whether there is a difference by voucher size, whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the PHA in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the PHA will continue increasing the payment standard. The PHA will also consider the HUD funding available to provide assistance to the families. If the funding is less than the amount needed to assist the PHA's current baseline number of units (289), the voucher payment standard amounts will be held to be between the 90% - 100% of FMR to be able to assist more households on the program.

Rent to Owner Increases

The PHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size. If the owner is requesting an increase in the rent, a rent comparability review will be completed.

Time to Locate Housing

The PHA may consider the average time period for families to lease up under the Voucher program. If more than 30% of Voucher holders are unable to locate suitable housing within the term of the voucher and the PHA determines that this is primarily due to the rents in the jurisdiction being unaffordable for families the Payment Standard may be adjusted.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the PHA 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 the PHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards. A file will be retained by the PHA 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

There are no exception payment standards in the Westminster City Jurisdiction.

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM (24 CFR 982.308(G)

The owner is required to notify the PHA, in writing, at least sixty days before any change in the amount of rent to owner that is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. [24 CFR 982.503]

Chapter 12 – RECERTIFICATIONS [24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements the PHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Re-certifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This Chapter defines the PHA's policy for conducting annual re-certifications 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 the PHA must conduct on an annual basis. These activities will be coordinated whenever possible:

- Recertification of income and family composition;
- HQS inspection.

The PHA 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.

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 an annual recertification will be required and the anniversary date will be changed. If the family had a recent annual or interim recertification and the verifications for income, assets, and deductions are less than 120 days old, and the family's reported income, assets, and deductions are the same, the current verifications can be used for the move/annual recertification. Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family

The PHA will maintain a re-examination tracking system and the household will be mailed the recertification packet at least 90 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice and recertification packet 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 due to their disability.

Procedure

The PHA's procedure for conducting annual re-certifications will be:

- All families will be sent a recertification packet with a cover notice that notifies the family of their recertification appointment to make sure all information is provided.
- The caseworker will review the packet for completeness and to assure that all appropriate signatures have been provided and will identify what is missing, if anything.
- Then, the caseworker will send off the third party verifications needed. (See Chapter 7 regarding Verification Procedures.)

Persons with Disabilities

Persons with disabilities who are unable to complete the recertification packet and request assistance from the PHA will be provided such assistance in the PHA Office or the tenant's home**,** upon verification that the accommodation requested meets the need due to their disability. The person with a disability will be required to either sign the forms or make their mark with a witness attesting to the mark to assure that the information provided by the family is accurate and complete.

Completion of Annual Recertification

The PHA will have all re-certifications for families completed before the anniversary date. This includes notifying the family of any changes in rent, preferably 30 days before the scheduled date of the change in family rent.

Collection of Information [24 CFR 982.516(f)]

The PHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The PHA will require the family to complete a Affidavit of Rental Benefits Form and the Recertification Packet prior to all recertification interviews. If the family needs assistance the PHA representative will interview the family and enter the information provided by the family on the recertification form, review the information with the family and have them sign the form.

Failure to attend the Annual Recertification appointment (or Complete Missing Information or Signatures)

If the family has failed to attend the annual recertification appointment as included in the notice, the PHA caseworker will send a follow-up notice to the family advising them to contact the PHA within a specified time period, or they will be issued a notice of termination of their assistance. If a re-certification appointment has be re-scheduled and the tenant fails to attend the second re-certification appointment then the tenant will be issued a notice of termination of their assistance.

If the family's annual recertification packet is incomplete the PHA caseworker will send a follow-up notice to the family advising them of the deadline for providing the missing information or signatures. If the family fails to meet that deadline the PHA caseworker will send a notice of termination of their

assistance. All notices of termination of the family's assistance will advise them of their right to an informal hearing regarding the termination.

Verification of Information

The PHA will follow the verification procedures and guidelines described in Chapter 7 of this Plan. Verifications for reexaminations must be less than 120 days old.

Tenant Rent Increases

If tenant rent increases written notice is required 30 days in advance to the family prior to the scheduled effective date of the annual recertification. If a delay is due to the family's failure to provide information or verifications in a timely manner, the rent increase will be effective the date of the annual recertification, provided the notice is in advance of the date of the annual recertification. 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 unless the family specifically requests an Interim recertification to be effective the first of the following month and would be effective a minimum of 30 days prior to 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 the PHA.

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption and court awarded custody. The family must obtain PHA approval prior to all other additions to the household. If any new family member is added, an Interim recertification is required and family income must include any income of the new family member. The PHA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Interim Recertification Policy

Changes in Increased Income

The PHA will conduct interim re-certifications when families have changes that may impact the income calculations. Interim re-certifications will not be completed for increased income changes of less than $500.00 annually. All program participants must report all changes in income and complete an Affidavit of Rental Assistance Benefits form for an Interim recertification within 7 days of receipt of income.

(Examples would be to begin work; to begin receiving unemployment; to begin receiving child support; to begin receiving TANF, begin receiving Social Security benefits etc.) The effective date of the interim recertification will be the first of the first month following when the family began receiving the income, following a 30 day notice, if reported timely.

PHA Errors

If the PHA 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. Families will be given decreases when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly. Families will be given 30 days advance notice of any increase in rent due to correction of a PHA error.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

The PHA 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 requirement to participate in an economic self-sufficiency program.

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

- The expiration of a lifetime time limit on receiving benefits, or;
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or;
- A situation where a family member has not complied with other welfare agency requirements.

Should the TANF grant be discontinued and completely closed the PHA will reduce the rent if the family requests an interim recertification.

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 the PHA, based on written information supplied to the PHA 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

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 Program Supervisor will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;
- A statement that the family may request an informal hearing if they do not agree with the PHA determination.

Verification before Denying a Request to Reduce Rent

The PHA will obtain 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. The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

Cooperation Agreements [24 CFR 5.613]

The PHA currently has no Cooperation Agreement (s) with the local welfare agency(s).

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

- An explanation for the PHA'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 the PHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

F. 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 the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing, in writing with a reason they think it is inaccurate.

G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)[24 CFR 982.516(C)]

Standard for Timely Reporting of Changes

The PHA requires that families report interim changes to the PHA within 7 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 14 days of the change. If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is reported in a Timely Manner

The PHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

- Increases in the Tenant Rent are effective on the first day of the 1st month following 30 days notice in which the change occurred.
- Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. 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 the first of the following month after reporting. An overpayment of HAP will result in the tenant owing money to the HA. The HA will calculate the overpayment in the month the income was earned. The calculation will be retroactive to the

month following the date of the income. The family will not be eligible for the 30 day notice of an increase in rent. The family will be liable for any overpaid housing assistance and will be required to sign a Repayment Agreement.

- Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

Procedures when the Change is not processed by the PHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the PHA in a timely manner. In this case, an increase will be effective after 30 day notice prior to the first of the month after completion of processing by the PHA. If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be paid back the amount they were overcharged.

H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(C)]

(See "Subsidy Standards" chapter.)

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

Under the Noncitizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members. The Noncitizens Rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

- The head of household or spouse is a U.S. citizen or has eligible immigrant status, and;
- All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants.

The family may change the head of household to qualify under this provision.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

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

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

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under portability procedures. The regulations also allow the PHA 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, the PHA'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 the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family;
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or 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 appropriate notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(A)]

Families **will not** be permitted to move within the PHA's jurisdiction or outside the PHA's jurisdiction under portability procedures during the <u>initial year</u> of assisted occupancy unless a mutual termination agreement is signed by both the landlord and the tenant. Such mutual termination agreement moves are subject to approval by the Housing Services Program Supervisor..

Families **will not** be permitted to move more than once in a 12-month period. **The PHA will deny permission to move if there is insufficient funding for continued assistance as determined by the PHA. The PHA will restrict moves to higher cost rentals due to insufficient funding as determined by the PHA.** The PHA **will** deny permission to move if:

- The family has violated a family obligation;
- The family owes the PHA money;
- The family has moved or been issued a voucher within the last twelve months.

The PHA may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves if the family has not been recertified within the last 120 days, the PHA will issue the voucher to move **only after** completion of a recertification. The family must provide the PHA with a copy of their written 30-day notice to vacate, with the landlord's signature as received or a Certificate of Mailing from a Post Office when they mailed the notice to the landlord. This must be provided prior to completion of the "Move" recertification.

Note: The PHA will not pay any overlap of assistance – the PHA will not begin assistance on a new unit until the old contract has ended.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the PHA proper written notice of any intent to move. The family must give the owner the required 30-days written notice of intent to vacate specified in the lease and must give a copy to the PHA simultaneously. Please note the documentation requirements listed above under **Issuance of Voucher**.

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, **including that there will be no overlapping of assistance.** In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless the tenant left prior to the end of their rent obligation under a proper 30-day notice which carried their rent obligation into the following month. Assistance will not start on the new unit until after the contract has terminated on their prior unit. Assistance payments may not overlap and the new contract cannot begin until the old contract has been terminated. This means the tenant will be responsible for the full rent on the new unit until the assistance obligation has ended on the prior contract.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the PHA's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant based program. When a family requests to move

outside of the PHA'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, the PHA will choose the receiving PHA.

The PHA will deny permission to move to a jurisdiction with higher payment standards if there is insufficient funding provided by HUD to pay the higher obligation unless the receiving PHA is willing to absorb the family into their own program.

Restrictions on Portability

Applicants

If neither the head of household or spouse had a domicile (legal residence) in the PHA's jurisdiction at the date of their initial application for assistance, the family **will not** be permitted to exercise portability upon initial issuance of a voucher, unless the PHA approves such move. [NOTE: legal domicile is defined by local government.] For a portable applicant family, the family must be eligible for admission under the receiving PHA's program to be accepted.

Additionally, if a family is not living in Westminster City at the time they are called in from the waiting list and they are working in Westminster City, the family will be required to lease in Westminster City for one year prior to exercising portability.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency they cannot exercise portability during the first year of assisted occupancy, except if the receiving and initial PHA agree to allow the move, and it is considered an emergency reason for the move, over which the participant has no control. An example would be a move necessitated due to threats of harm due to domestic violence issues.

The PHA **will not** permit families to exercise portability:

- If the family is in violation of a family obligation;
- If the family owes money to any PHA;
- If the family has moved out of its assisted unit in violation of the lease.

Receiving PHA's will be required to submit hearing determinations to the PHA within 30 days, if applicable.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The PHA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by the PHA. The term of the

voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for approval of tenancy for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

The PHA will absorb incoming vouchers in cases where the initial PHA absorbs an equal number of the PHA's outgoing vouchers, provided the PHA has sufficient funds to absorb the vouchers.

Incoming portable families whose vouchers are being administered will not be absorbed unless the PHA has determined that it would be advantageous for the PHA to do so. This determination will be made by the PHA Program Supervisor. When the PHA does not absorb the incoming voucher, it will administer the initial PHA's voucher. However, City of Westminster Housing Authority's policies will prevail as the receiving PHA.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program. The receiving PHA does not re-determine income limit eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The PHA 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, the PHA 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 it will conduct a recertification interview. If the documents necessary to complete the recertification are missing or are over 120 days old, or there has been a change in the family's circumstances, the PHA must obtain new verifications to complete the recertification.

If the family's income is such that a $0 subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at $0 assistance.

Requests for Tenancy Approval

When the family submits a Request for Tenancy Approval it will be processed using the PHA's policies. If the family does not submit a RTA or does not execute a lease, the initial PHA will be notified within 30 days of the expiration of the Voucher by the PHA. If the family leases up successfully, the PHA will notify the initial PHA within 60 days, and the billing process will commence. If the PHA denies assistance to the family, the PHA will notify the initial PHA within 30 days and the family will be offered a review or informal hearing. The PHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the PHA's jurisdiction under continued portability.

Regular Program Functions

The PHA 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 by the family or required by this Administrative Plan.

Terminations

The PHA will notify the initial PHA in writing of any termination of assistance immediately of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies the PHA that the family is in arrears or the family has refused to sign a payment agreement, the PHA will terminate assistance to the family.

Required Documents

As receiving PHA, the PHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

Billing Procedures

As receiving PHA, the PHA will bill the initial PHA monthly for housing assistance payments, administrative fees, and special claims (such as Lead-Based Paint Clearance testing) unless requested otherwise by the initial PHA.

The PHA 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. The PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the PHA 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 the PHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the PHA 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 the PHA may be terminated by the PHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month in which the contract is terminated. The owner must reimburse the PHA for any subsidies paid by the PHA for any period after the contract termination date. If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a contract termination, if the family has a “move” voucher and meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may not begin until the contract for the old unit has terminated.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(C)(2)]

Family termination of the lease must be in accordance with the terms of the lease and must be reported to the PHA at least 30 days in advance of the termination.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate 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;
 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 regulations 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;
- The demand for assisted housing by families who will adhere to responsibilities;
- 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.

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;
 Is successfully participating in a supervised drug or alcohol rehab program;
 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 or all of the three (above). Actions of termination by the owner must be consistent with the fair housing and equal opportunities 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. 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.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant or the tenant has moved out of the unit.

The PHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and the owner is in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance.

D. TERMINATION OF THE CONTRACT BY PHA [24 CFR 982.404(A), 982.453, 982.454, 982.552(A)(3)]

The HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family, and when the owner has breached the HAP contract. The PHA may also terminate the contract if:

- The PHA 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 Annual Contributions Contract.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the PHA terminates the HAP contract under the violation of HQS space standards or when the PHA terminates assistance to the family, the PHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner. Unless the tenant has vacated the unit in violation of the Family Obligations and or the tenant is no longer occupying the unit with or without proper notice. If Landlord is in violation of the HCV program no payments will be made regardless of the 30 day notice as mentioned above.

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

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the family obligations under the program, the grounds under which the PHA can deny or terminate assistance, and the PHA's informal hearing procedures. This chapter describes when the PHA is required to deny or terminate assistance, and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the PHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the PHA waiting list;
- Denial or withdrawal a voucher;
- Refusal to enter into a HAP contract or approve a tenancy;
- Refusal to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

- Refusal to enter into a HAP contract or approve a tenancy;
- Terminating housing assistance payments under an outstanding HAP contract;
- Refusal to process or provide assistance under portability procedures;
- Refusal to issue a voucher for moving.

Mandatory Denial and Termination [24 CFR 982.54 (d), 982.552(b), 982.553(a), 982.553(b)]

The PHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days have elapsed since the PHA's last housing assistance payment was made.

The PHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The PHA must deny admission to the program for applicants, and terminate assistance for program participants if the PHA determines that any household member is currently engaging in illegal use of a drug.

The PHA must deny admission to the program for applicants, and terminate assistance for program participants if the PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA must deny admission to an applicant if the PHA determines that any member of the household is subject to a registration requirement under a State sex offender registration program. See section B of this chapter for the PHA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a registration requirement under a State sex offender registration program.

The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The PHA must 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 24 CFR Part 5, subparts B and F.
The PHA must 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)]

The PHA will deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

- Any family member violates any family obligation under the program as listed in 24 CFR 982.551;
- Any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity. See Section B of this chapter for the PHA's established standards;
- Any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity;
- Any member of the family has been evicted from federally assisted housing in the last five years;
- Any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

 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.
 The family breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The PHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The PHA will prescribe the terms of the agreement.
 The family fails to fulfill its obligation under the Section 8 welfare-to-work voucher program.
 The family has engaged in or threatened abusive or violent behavior toward PHA personnel. "Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
 Actual physical abuse or violence will always be cause for termination.
 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.
 Any member of the family commits drug-related criminal activity, or violent criminal activity.
* Any member who was terminated from any Federally assisted Housing Program within the past 5 years.

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 City of Westminster Housing Authority 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 race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

To the maximum extent possible, the PHA will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy will be posted on the PHA's website and copies made readily available to applicants and participants upon request.

Screening of Applicants

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the PHA 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 authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA-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 authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control.*

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

In the above definition of violence ("the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation) the inclusion of the word ‘‘power,’’ in addition to the phrase "use of physical force," broadens the nature of a violent act and expands the conventional understanding of violence to include those acts that result from a power relationship, including threats and intimidation. The "use of power" also serves to include neglect or acts of omission, in addition to the more obvious violent acts of commission. Thus, "the use of physical force or power" should be understood to include neglect and all types of physical, sexual and psychological abuse, as well as suicide and other self-abusive acts.

This definition covers a broad range of outcomes – including psychological harm, deprivation and maldevelopment. This reflects a growing recognition of the need to include violence that does not necessarily result in injury or death, but that nonetheless poses a substantial burden on individuals, families, communities and health care systems worldwide. Many forms of violence against women, children and the elderly, for instance, can result in physical, psychological and social problems that do not necessarily lead to injury, disability or death. These consequences can be immediate, as well as latent, and can last for years after the initial abuse. Defining outcomes solely in terms of injury or death thus limits the understanding of the full impact of violence on individuals, communities and society at large.[2]

Standard for Violation

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse. The PHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous six months.

“Engaged in or engaging in” violent criminal activity means any act within the past five 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 resulted in the arrest and/or conviction of the applicant, participant, or household member.

The existence of 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, the PHA 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 Section 8 program for a five-year period beginning on the date of the last such eviction.

Applicants, who have engaged in drug-related criminal activity, are ineligible for admission to the Section 8 program for a five-year period beginning on the date of the last incidence of criminal activity. However, the household may be placed on the waiting list, after considering the individual circumstances of the household, if the PHA determines that:

- The household member who engaged in drug-related criminal activity has entered, and is successfully participating in, a supervised drug rehabilitation program approved by the PHA. The household will not be taken off the waiting list, and processed for a Voucher, until such time as the household member provides evidence that s/he has COMPLETED the rehabilitation program.
- The circumstances leading to eviction no longer exist because:
  - The criminal household member has died.
  - The criminal household member is imprisoned.

The above waiver of denial DOES NOT extend to household members having been previously involved in any manufacturing or delivery of a controlled substance. For these types of activities, denial of assistance will be made for the full five (5) years from the last engagement in prohibited activity.

The PHA will permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on or off the premises of federally assisted housing without waiver ability.

Applicants will be denied assistance if they have been **convicted** for violent criminal activity within the last **five years** prior to the date of the certification interview.

Denial of Assistance for Sex Offenders

The PHA will deny admission if any member of the household is subject to a registration requirement under a State sex offender registration program. In screening applicants, the PHA will perform criminal history background checks to determine whether any household member is subject to a sex offender registration requirement.

Termination of Assistance for Participants

Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:

Under the family obligations listed at 24 CFR 982.551, the members of the household must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. HUD regulations at 24 CFR 982.553(b) requires the PHA to establish standards for termination of assistance when this family obligation is violated. The City of Westminster Housing Authority 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 **convicted** for drug-related or violent criminal activity during participation in the program, and within the last five 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, the PHA will terminate assistance.

In appropriate cases, the PHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

The PHA may waive the termination of assistance for drug-related criminal activity if:

- The person demonstrates successful participation and completion of a credible rehabilitation program approved by the PHA, or;
- The circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

This waiver authority will not be used in cases where person(s) have engaged in drug-related criminal activity related to manufacturing or delivery of a controlled substance.

The PHA will permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on or off the premises of federally assisted housing without waiver ability.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the PHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Assistance will be terminated if a household member is convicted of any alcohol-related criminal activity on or near the premises within any 12 month period.

In appropriate cases, the PHA may permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

Notice of Termination of Assistance

In any case where the PHA decides to terminate assistance to the family, the PHA 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 termination of assistance;
- The date by which a request for an informal hearing must be received by the PHA.

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the 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 proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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. The PHA will pursue fact-finding efforts as needed to obtain credible evidence.

The PHA will terminate assistance for criminal activity by a household member, as described in this chapter, if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record (other than public records available to the general public) received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports (other than public records available to the general public), while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance and to upper level Section 8 management.

If the family is determined eligible for initial or continued assistance, any non-public record criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, any non-public criminal record information shall be stored in a locked room and remain confidential until the time the file is shredded.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

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

The family must disclose and verify Social Security Numbers (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 allow the PHA 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 the PHA before the family moves out of the unit or terminates the lease upon notice to the owner.

The family must promptly give the PHA 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 the PHA. The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

The family must promptly notify the PHA if any family member no longer resides in the unit.

If the PHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or PHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit with authorization of the landlord, 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.

The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit.

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 Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The PHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The PHA 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.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The PHA may permit the other members of a family to continue in the program.

The City of Westminster Housing Authority works with the Office of Inspector General, local police department and other various sources to investigate and determine if there are program violations. When it has been determined that there are program violations the HA terminates assistance. When terminations are due to an unauthorized persons living in the assisted units and the unauthorized person would not have been eligible to be added to the household, or had income that would make the household ineligible to receive HAP, the Housing Authority will use the HAP payment made on behalf of the family in the calculation of over-payment of HAP. The total time the unauthorized resided in the assisted unit will be used for the calculation of the overpayment and the HA will request restitution through the court system. Violations of the Family Obligations that result in a termination from the HCV program will have a five year ineligibility time frame for all adults in the household.

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used with the family obligations always means "within seven days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach: The PHA 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 either the Executive Director or the Housing Services Manager.

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:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

the PHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

 If there are police reports, neighborhood complaints or other third party information documenting serious or repeated lease violations that has been verified by the PHA.

 Nonpayment of rent is considered a serious violation of the lease.

 Causing intentional destruction to the property or causing excessive damage to the property due to lack of care, failure to maintain the property and/or failure to notify the owner of needed repairs that caused extensive damage due to the delay in reporting needed repairs.

Notification of Eviction: If the family requests assistance to move and they did not notify the PHA of an eviction within seven days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family: The PHA will deny a family's request to add additional family members who are:

 Persons who have been evicted from public housing;

 Persons who have previously violated a family obligation listed in 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 within the last 5 years

 Persons who commit drug-related criminal activity or violent criminal activity. See Section B of this chapter for the PHA's established standards;

 Persons who do not meet the PHA's definition of family;

 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 the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

 Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Member Moves Out: Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information:

 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.

If the entire family leaves the unit in violation of the lease or the family obligations they may be terminated. If the family is incarcerated and away from the unit for 30 days they may be terminated if they failed to notify or have the permission of the HA.

The unit must be the Tenants only residence. Therefore if they are absent from their unit more days then they reside in their unit they may be terminated. For example if the tenant were to be out of their unit three weeks and home one week they would be considered residing elsewhere, and they would be terminated. When the PHA is aware of the absence and has given permission then the tenant would be allowed to remain on the program.

The PHA may use utility bills, neighbor's reports of vacancies, visits to the unit and other forms of investigations to determine if the tenant is residing in the unit.

Limitation on Profit-Making Activity in Unit: If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If the PHA determines the business is not legal, it will be considered a program violation. If the PHA determines that the business activity is not in violation of the above conditions and the landlord has given written authorization for the family to operate the profit-making activity in the assisted property, the family will not be considered in violation of the lease.

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, the PHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

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

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing. Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the PHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) 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, the PHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status. The PHA will then verify eligible status, deny, terminate, or prorate as applicable. The PHA 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 the PHA either after the INS appeal or in lieu of the INS appeal.

After the PHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for 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 assistance 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, the PHA 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)]

If the family has misrepresented any facts that caused the PHA to overpay assistance, the PHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the PHA in full within 30 calendar days.

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, the PHA will deny or terminate assistance. In making this determination, the PHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

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 the PHA to fulfill its responsibilities. The PHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the PHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the PHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the PHA 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:

- Eligibility for Admissions;
- Verification Procedures;
- Voucher Issuance and Briefings;

- Housing Quality Standards Inspections;
- Re-certifications;
- Appeals.

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Incarceration
- Family emergency

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing:

- The termination may be rescinded only after the family cures the breach;
- The notice will not be rescinded even if the family offers to cure the breach if this is a repeat offense;
- The notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

Chapter 16 - OWNER DISAPPROVAL AND RESTRICTION [24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the PHA to recruit owners to participate in the voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(D)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party. The PHA will disapprove the owner for the following reasons:

1. HUD has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
2. HUD has informed the PHA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.
3. HUD has informed the PHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
4. 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. The PHA 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, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.
5. The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
6. The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
7. The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other Federal housing program.
8. The owner has a history or practice of renting units that fail to meet State or local housing codes.
9. The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents;
- Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing.
- Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
- Is involved in drug-related criminal activity or violent criminal activity.

10. 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.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

C. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract and lease. However, it does require an assignment of the contract and lease to the new owner. The PHA may approve the assignment of the HAP contract. The PHA may approve the assignment, since they are a party to the contract. The PHA may deny approval of assignment of the contract, for any of the reasons listed in Section A. of this chapter.

The PHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the employee identification number or social security number of the new owner as noted on the required W-9 form.

The PHA must receive a written request by the old owner in order to change the HAP payee and/or the address to which payment is to be sent or the information can be documented that such request is coming from the old owner.

If the new owner does not want an assignment of the contract, the PHA will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

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

INTRODUCTION

This chapter describes the PHA's policies for the recovery of monies, 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 the PHA'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 the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments;
- Civil lawsuits;
- Repayment agreements;
- Abatements;
- Reductions in HAP to owner;
- Collection agencies;
- Withhold amounts due from HAP for other families (for amounts due from owner).

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 the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the PHA upon default of the agreement. The PHA 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 the PHA.

There are some circumstances in which the PHA will not enter into a repayment agreement. They are:
- If the family already has a Repayment Agreement in place;
- If the PHA determines that the family committed program fraud and the PHA determines that the actions of the family imply or indicate that the fraud was intentional or if it was a repeat offense.

The person(s) owing the debt would be required to make a down payment on the debt acceptable to the PHA, to enter into a repayment agreement. The combination of the down payment and the monthly payments would generally be required to fully repay the debt within twelve months. Any repayment agreement that would necessitate a time period beyond twelve months would have to be authorized by the PHA Executive Director.

The minimum monthly payment for any repayment agreement is $50.00 unless the total balance is in excess of $300.00. Then, the general rule is the amount that would allow the entire balance to be paid in a twelve month period would be the required minimum monthly payment.

B. DEBTS OWED FOR CLAIMS [24 CFR 792.103, 982.552 (C)(V-VII)]

If a family owes money to the PHA for claims paid to an owner the PHA will review the circumstances resulting in the overpayment and decide whether the family must pay the full amount or whether a repayment agreement will be permitted.

Repayment Agreement Default

The Repayment Agreement will be considered to be in default if two monthly payments have failed to be paid within the due dates of those payments. If the family's repayment agreement is in default and the family has not contacted or made arrangements with the PHA, the PHA will:

- Require the family to pay the balance in full, or;
- Terminate the family's housing assistance.

If the family requests a move to another unit and has a repayment agreement in place for the repayment of an owner claim, and the repayment agreement is not in arrears the family will be required to pay the balance in full prior to the issuance of a voucher for moving.

If the family requests a move to another unit and is in arrears on a repayment agreement for the repayment of an owner claim the family will be required to pay the balance in full, or be terminated from the program.

C. DEBTS DUE TO MISREPRESENTATIONS OR 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 Section 8 program funds in violation of Section 8 program requirements."

Family Error/Late Reporting or Program Fraud

Any family that the PHA determines to have misrepresented family income, assets, household composition, or allowances; or to have failed to report a change in family composition or income as required in this Plan, may be terminated from the program and/or may be required to repay all monies due the PHA from the overpayment of housing assistance, as calculated by the PHA. The determination of which action or whether a combined action is appropriate shall be the decision of the PHA. The PHA will take the following into consideration for the determination of action to be taken:

1. Whether this is a first occurrence for such misrepresentation or failure to report;
2. The length of time over which the overpaid assistance developed;
3. Whether the family declared the unreported change at the next re-exam;

4. Whether the family failed to disclose income or assets or purposely claimed allowances to which they were not entitled, at one or more re-exams; and,
5. The PHA's method of discovery (examples: family member came forward and made a self-declaration and the time frame of when it was reported or the discovery was via another non-family member or an outside party).
The PHA will also take into consideration any other violations of the family Obligations and their frequencies.

If a family owes an amount which equals or exceeds $10,000.00 as a result of program fraud, the case will be referred to the HUD Office of the Inspector General (OIG). Where appropriate, the PHA will refer the case for criminal prosecution.

Repayment Procedures for Program Fraud

It is at the PHA's discretion to determine if the participant reported late due to lack of regard for the rules and regulations of the program or If the circumstances were not intentional or there were extenuating circumstances that warrant allowing the family to repay the overpaid assistance. The repayment procedures will be in accordance with the guidelines in the Repayment Agreement Section of this Chapter.

D. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

Minimum rent arrears that are less than $50.00 will be required to be paid in full the first month following the end of the minimum rent period. The minimum monthly amount for a repayment agreement incurred for minimum rent arrears is $25.00. The PHA will not enter into a repayment agreement that will take more than 12 months to pay off.

E. GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 982.552(C)(V-VII)]

Repayment agreements will be executed between the PHA and all the adults included in the household. Payments may only be made by money order, cash or check.
Repayment agreements will be considered in default when two (2) payments are delinquent. When the repayment agreement is in default, no further repayment agreements will be renegotiated and all monies are due in full.
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 the Manager/PHA Executive Director.
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.

F. OWNER DEBTS TO THE PHA [24 CFR 982.453(B)]

If the PHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to the PHA 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, the PHA will:

- ☐ Require the owner to pay the amount in full within 30 days;
- ☐ Pursue collections through the local court system;
- ☐ Restrict the owner from future participation.

G. WRITING OFF DEBTS

Debts will be written off if:

- ☐ The debtor's whereabouts are unknown and the debt is more than ten years old;
- ☐ A determination is made that the debtor is judgment proof;
- ☐ The debtor is deceased;
- ☐ The debtor is confined to an institution indefinitely.

Chapter 18 - COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE PHA

The PHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. HQS complaints may be reported by telephone.

The PHA informal hearing procedures will be provided to families in the briefing packet.

B. PREFERENCE DENIALS

When the PHA denies a preference to an applicant, the family will be notified of the specific reason for the denial and offered the opportunity for a meeting with PHA staff to discuss the reasons for the denial and to dispute the PHA's decision. The person who conducts the meeting will be the Housing Services Manager.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(D)(12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing. When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible;
- The procedure for requesting a review if the applicant does not agree with the decision and;
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The PHA must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference;
- Listing on the PHA's waiting list;

- Issuance of a voucher;
- Participation in the program;
- Assistance under portability procedures.

Informal reviews are not required for established policies and procedures and PHA determinations such as:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA subsidy standards;
- Refusal to extend or suspend a voucher;
- 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 **ten (10)** days from the date of the PHA's notification of denial of assistance. The informal review will be scheduled promptly, generally within ten (10) working days.

The review will be conducted by the Housing Manager.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense. A notice of the review findings will be provided in writing to the applicant promptly by the review officer. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(A-F), 982.54(D)(13)]

When the PHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The PHA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the PHA;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for the PHA's decision;
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing.

When terminating assistance for criminal activity as shown by a criminal record, the PHA will notify the tenant/participant with information of the criminal record upon which the decision to terminate was based.

The PHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following PHA determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment;
- Determination to terminate assistance for any reason;

The PHA must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and PHA determinations such as:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA schedule of utility allowances for families in the program;
- PHA determination not to approve an extension or suspension of a voucher term;
- PHA determination not to approve a unit or lease;
- PHA determination that an assisted unit is not in compliance with HQS (PHA must provide hearing for family breach of HQS because that is a family obligation determination);
- PHA determination that the unit is not in accordance with HQS because of the family size;
- PHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

Notification of Hearing

It is the PHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that participants will receive all of the protections and rights afforded by the law and the regulations.

When the PHA receives a request for an informal hearing, a hearing shall be scheduled promptly, generally within ten (10) working days. The notification of hearing will contain:

- The date and time of the hearing;
- The location where the hearing will be held;
- A copy of the Informal Hearing procedures.

The PHA's Hearing Procedures

A participant who fails to appear for a scheduled hearing shall forfeit the right to a hearing and the action of the Westminster Housing Services program shall stand.

The informal hearing will only be rescheduled one time at the request of the tenant, if the request is a reasonable accommodation.

Families have the right to:

- Present written or oral objections to the PHA's determination;
- Examine the documents in the file which are the basis for the PHA'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 PHA 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.

If the family requests copies of documents relevant to the hearing, the PHA will make the copies for the family and assess a charge of 25 cents per page, per copy. Under no circumstances will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this Chapter, the PHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- 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 its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. The PHA appoints hearing officers who are Directors or employees of an Official nature of the City of Westminster government, or other Housing Agencies. 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.

The family must request an audio recording of the hearing, if desired, three days prior to the hearing date, at the cost of providing the duplicate.

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 the PHA shall take effect and another hearing will not be granted. The Hearing Officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the PHA and the family promptly, generally within ten working days, and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed and an explanation of the calculation of the amount;
- The date the decision goes into effect.

The PHA is not bound by hearing decisions:

- Which concern matters in which the PHA is not required to provide an opportunity for a hearing;
- Which conflict with or contradict to HUD regulations or requirements;
- Which conflict with or contradict Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing.

The PHA shall send a letter to the participant if it determines the PHA is not bound by the Hearing Officer's determination within ten (10) working days. The letter shall include the PHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [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 the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA 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, the PHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen 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 the PHA 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, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members. 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 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 non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(C)]

When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Chapter 19 - SPECIAL HOUSING TYPES [24 CFR 982.601]

INTRODUCTION

The PHA will permit the use of the Special Housing Types (Single Room Occupancy Housing; Congregate Housing; Group Home Housing; Shared Housing; Cooperative Housing; and Homeownership (excluding Section 8 Home Ownership program participants) in its program only if the applicant/participate can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation. The PHA will not set aside any program funding for special housing types.

Verification of Need for Reasonable Accommodation

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA 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 Housing Services Manager or the Executive Director and a written response stating approval or disapproval will be sent to the applicant/participant promptly, generally within ten (10) working days of receipt of the request.

A copy of the PHA'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 [24 CFR 982.602]

A single person may reside in an SRO housing unit. The PHA will use a separate lease and housing assistance payment contract for each assisted person residing in a SRO. [24 CFR 982.603]

SRO Rent and Housing Assistance Payment [24 CFR 982.604]

Voucher Program

The PHA SRO payment standard is 75 percent of the zero bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard amount. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

Utility Allowance

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

Housing Quality Standards

The PHA will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

B. CONGREGATE HOUSING [24 CFR 982.606]

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

Congregate Housing Lease and HAP Contract [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family. Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

Housing Quality Standards

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

C. GROUP HOMES [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home.

If approved by the PHA, a live-in aide may reside with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

Group Home Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in Aide.

Group Home Rent and HAP Contract [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home. The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent the PHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy

Unless there is a live-in aide, the family unit size is one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size. The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

Utility Allowance

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

Housing Quality Standards

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

D. SHARED HOUSING [24 CFR 982.615]

Occupancy

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

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

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the PHA. However, housing assistance may not be paid on behalf of an owner. The PHA will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

Rent and HAP Contract

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

Maximum Subsidy

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

If the PHA approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance

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

Housing Quality Standards

The PHA will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

F. MANUFACTURED HOMES [24 CFR 982.620]

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will not provide assistance for a family that owns the manufactured home and leases only the space, unless it is needed as a reasonable accommodation for a person with a disability.

The PHA may approve a live-in aide to reside with a family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

- A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.
- A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

G. HOMEOWNERSHIP [24 CFR 982.625]24 CFR 982.625 (D)(2)

It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

Chapter 20 - HCV HOMEOWNERSHIP OPTION

A. GENERAL PROVISIONS

Westminster City Housing does not offer the HCV Homeownership Program at this time. They will consider requests, in the order they are received and upon review and qualifications.

CHAPTER 22 - EQUAL OPPORTUNITY HOUSING PLAN

This Equal Opportunity Housing Plan covers all units administered by the PHA. Included are the Housing Choice Voucher and Family Self Sufficiency programs.

A. COMMUNITY-WIDE INFORMATION EFFORTS

- Paid Advertising: When the need arises for such advertising local publications will be used.
- Press Releases: When the program is expanded or significantly enhanced, press releases will be prepared and distributed to the local Carroll County publications, local radio stations, and the local Cable franchisee.
- Brochures: The PHA publishes a comprehensive booklet, "A Guide to Renting, which is distributed to all current Section 8 tenants and others inquiring about rental housing.

Information sheets on the Section 8 program have previously been distributed to HOPE, Carroll County Commission on Aging, Westminster United Methodist Church, Carroll County Department of Social Services, Westminster Rescue Mission, Union Memorial Baptist Church, and Human Services Programs of Carroll County, Inc. Information is also given through presentations to Head Start and Options workshops.

The PHA has also published a brochure on the Fair Housing laws. This is distributed throughout the community as well as in the tenant's briefing package and given at the landlord seminars on fair housing that this office co-sponsors.

- Community Contacts: The organizations listed above, plus the other organizations listed on are in contact with the PHA.
- Other: The HUD approved Fair Housing Poster is prominently displayed in our lobby. All program participants receive the brochure "Fair Housing USA".

B. SPECIAL EFFORTS TO ATTRACT FAMILIES

Groups, on the basis of past experience and in our judgment are not otherwise expected to apply for Housing Choice Vouchers of Family Participation without special outreach because of factors such as race, ethnicity, or source of income: The groups least likely to apply are the elderly, the homeless, and the illiterate. Special efforts to encourage such group(s) to apply:

- Paid Advertising: See Section A.
- Press Releases: See Section A.

- Brochures: At the beginning of the program, local landlords sent fliers to their black and elderly tenants, and fliers were available at various community contact centers. At the present time information on the program is in the offices of related agencies and is handed out in response to inquiries at the PHA office.
- Community Contacts: See Section A.
- Other: The PHA has supplied pre-application forms to Human Services of Carroll County, Inc. for distribution. In addition, their staff, as well as the staff of the PHA, are able to assist people who require help in completing the application form. The Carroll County Office on Aging also has a supply of the application forms, and performs the same service. It is felt that this one-on-one method is more effective in reaching the under-served population than written materials due to the often limited literacy of the target population.

C. SPECIAL EFFORTS TO ENCOURAGE LANDLORD AND BROKER PARTICIPATION

- Paid Advertising: See Section A.
- Press Releases: See Section A.
- Brochures: At the beginning of the program, a flier was sent to the largest landlords within Westminster. Currently, a multi-page program explanation of the programs is distributed to landlords upon request.
- Community Contacts: At the beginning of the programs, written and telephone contacts were made with the community groups identified at that time. Currently, landlords are reached through the Carroll County Association of Realtors.
- Other: Since the PHA administers various special housing initiatives and assists local landlords in obtaining State rehabilitation loans as well as administering the Section 8 programs, landlords are in frequent contact with the office. Current and potential landlords who inquire about other programs or are being assisted in other fashions are advised of the Section 8 programs by the Program Supervisor of Housing Services.

D. ESTABLISHMENT OF WAITING LIST AND ISSUANCE OF HOUSING CHOICE VOUCHERS

Please see the appropriate sections of this Administrative Plan for the establishment of the waiting list and briefing of voucher holders. In addition, the following applies:
Procedures that will be followed when families encounter discrimination:

- The PHA staff will assist the family in filing HUD Form 903 with the HUD Regional Office with a copy to the Baltimore Field Office, and the Maryland Human Relations Commission. The family will be given free choice as to the method they wish to use. If the family chooses not to file a formal complaint with one or both of the agencies, **and** the alleged victim was receiving Section 8 rental assistance from this office, and if this office feels it is warranted, the Program Supervisor, Housing Services, may file a complaint with the HUD Regional Office, with a copy to the Baltimore Field Office, and the Maryland Human Relations Commission as the injured party seeking administrative relief.

- If a participating landlord is found guilty of discrimination, or states intent to discriminate, he or she will be denied further participating in the Section 8 programs run by this office.

E. STAFFING

The PHA has run the Section 8 programs for over three decades. The nondiscrimination hiring policy for staff for this program is that the City of Westminster is an Equal Opportunity and Affirmative Action hiring agency operating under such policies to govern the staff. The staff composition by title, as of January 2019 is as follows:

Name	Title
Cindy Valenzisi	Executive Director
Rebecca Hurd	Housing Specialist,
pretta Pressimone	Housing Specialist,
Roy Singer	Code Inspector

CHAPTER 22 - FRAUD POLICY AND TENANT INTEGRITY PROGRAM

Fraud Policy Statement

The PHA is committed to preventing, detecting, and reporting any possible fraud within its jurisdiction. To that end, we have developed a Fraud Policy and a Tenant Integrity Program.

The Tenant Integrity Program Objectives:

- To prevent unintentional program violations due to misunderstanding;
- To prevent and detect program violations;
- To take effective administrative, civil, or criminal action, as appropriate.

It is hoped that this program will help ensure that HUD receives maximum effective use from its funds. The PHA should benefit by removing ineligible families to make "new" units available; problem tenants are removed or sanctioned; dollars recovered are increased along with rents; compliance and cooperation of tenants are improved; staff cooperation with the community and other benefit agencies improves. Applicants and tenants should benefit because embarrassment and financial hardship are avoided by not violating program rules due to ignorance or misinformation. In addition, honest tenants will be less inclined to start cheating due to peer pressure and will have the satisfaction of knowing that cheating by others will not be tolerated.

A. TYPES OF VIOLATIONS

Violations can be programmatic or criminal. A program violation occurs when a tenant or a Landlord, by action or inaction, breaches a contract, policy, or procedural requirement of HUD or the PHA. Fraud is deceit or trickery deliberately practiced in order to gain some advantage dishonestly. Fraud is a willful and intentional deception; it cannot be committed accidentally.

Examples of program violations/program abuse are:

- Tenant fails to submit requested verification.
- Tenant fails to appear for a scheduled appointment or complete re-certification.
- Tenant fails to pay rent or other charges.
- Tenant does not keep utilities in service.
- Tenant does not report changes in income, assets or household members in a timely manner.
- Tenant vacates the unit in violation of lease.
- Fraud is shown by:
    - Tenant knowledge that what he or she did, or failed to do, was wrong (e.g., have signed papers acknowledging program requirements).
    - The tenant willfully violating the law (act done repeatedly, false names or social security numbers were used, falsified documents, omitted facts, admitted to others, etc.)

Criminal violations include:

- Violations involving income and assets:
    - Knowingly omits income or assets of a self or household member;
    - Under-reports income/assets of self or household member;
    - Transfers income or assets to obtain/retain false eligibility;
    - Overstates deductions/allowances/expenses;
- Violations involving the number and identity of household members.
- The use of false Social Security Number(s).
- The use of false documents: birth certificates, marriage license.

Violations by tenant involving unit:

- Tenant owns or has interest in the unit.
- Tenant obtains duplicate assistance, such as subletting all or part of the unit; has a unit in more than one location.
- Tenant used assisted unit for illegal activity or business.
- Tenant does not pay their tenant portion of the contract rent designated by PHA.

Landlord violations:

- Landlord charges illegal side payment or security deposit;
- Landlord knowingly accepts payments for a vacant unit
- Landlord falsifies claims.
- Landlord reduces tenant's portion of rent, and or changes to the utilities or provisions of the lease without signing a new HAP contract or the HA's approval.

Conspiracy Schemes:

- Tenant owns or has interest in unit.
- Fictitious Landlord accepts HAP payment. Landlord resides in assisted unit.
- Tenant pays illegal side payment to Landlord.
- PHA employee permits tenant to bypass waiting list.
- PHA employee has knowledge of tenant unreported income.
- PHA employee accepts payments from landlord for concessions, steering, or approving excessive rent.
- Landlord makes any changes to the assisted unit's contract rent without notify the PHA and receiving the PHA's approval.
- Tenant receives monetary gifts such as, reduction in rent, nonpayment of rent, payment of utilities and or payment for work done in exchange for rent not reported to PHA.

B. COMMITMENT TO INVESTIGATE MISREPRESENTATIONS AND PURSUE REMEDIES

The PHA, in partnership with the City of Westminster Police Department and the Attorney General's office will investigate allegations, complaints, or other observations that indicate a family is receiving more benefits than it is entitled to receive. The PHA will vigorously pursue false statements that result in the tenant's payment less rent, or HUD overpaying rental assistance. After verification of these misrepresentations, the PHA will take all necessary steps to recover 100% of the HAP loss including administrative actions, civil or criminal court actions, or judgments, as it deems appropriate.

C. APPLICANT AND TENANT RESPONSIBILITIES

Failure or refusal to do the following three items is grounds for denial of assistance to applicants or termination of assistance of tenants:

- All applicants or tenants must complete required forms and supply requested information in a timely fashion. Timely is considered to be two weeks or less from the date of the request.
- Applicants and tenants are responsible for supplying complete and accurate information.
- Applicants and tenants must display civilized, acceptable, and responsible behavior.

In addition, tenants must:

- Inform the PHA of increases in all income immediately and in writing.
- Notify the PHA immediately when a guest will live in the unit for more than one week. Any person living in the unit more than 14 consecutive days or 30 days over the course of a year must qualify as either a "Family Member" as defined in Chapter 4 or a "member of the household" who must be added to the lease if acceptable to the landlord and the PHA.

In addition, any person who uses the assisted unit as his or her primary residence must be added to the program. A primary residence is defined as the residence at which the person spends the majority of his or her time.

D. ADMISSION RESTRICTIONS

Denial of participation applies under the following circumstances:

- Failing to repay previous debt;
- Committing fraud in connection with any HUD program, or to disclose previously committed fraud in connection with any HUD program;
- Providing false information on the application;
- Tenant non-cooperation: refusing or failing to complete required forms or to supply requested information;
- Applicants who appear on HUD's List of "Suspensions, Debarments, and Limited Denials of Participation.

E. THE SEQUENCE OF AN INVESTIGATION

- The allegation is received and evaluated.
- Vague and non-credible allegations are closed to file.

- An investigative worksheet is prepared for credible allegations.
- Decisions are made as to type of evidence to obtain to prove or disprove allegation.
- Verifications sent, witnesses interviewed or other sources queried as needed.
- Verifications monitored and followed up until received.
- All results considered for determining validity of allegations.
- Additional information obtained if needed to further support conclusion or to follow up on new leads.
- Invalid allegations closed to file.
- Valid allegations reviewed to determine intent by subject, length of occurrence, and amount involved.
- Tenant is consider to be “not in good standing” while under investigation. Therefore issuance of voucher, or any other administrative decision will be delayed until the investigation has concluded.
- Conference is held subject to review findings, and to obtain response if the written record is not clear or it is otherwise appropriate.
- Allegation closed if clearing up by subject, or administrative remedy selected as appropriate.
- If prosecution is considered appropriate, prosecutor contacted.

All complaints, tips, or allegations will be reported on an Inquiry Request Form. This will be followed by the completion of an Occupancy Allegations Checklist. The employee completing the checklist will then assess the checklist results to determine the extent and priority of any follow-up work.

F. THE TENANT CONFERENCE

If the PHA has reason to believe that a violation may have occurred, it may deem a tenant conference appropriate. A tenant conference is a meeting between the PHA staff and the tenant prior to a recommended action against the tenant, if any. It is an event structured by the PHA to provide the tenant the opportunity to examine the PHA's facts/documents and respond to them. The tenant's explanations may clarify or mitigate the PHA's findings or become additional evidence for the PHA. If the tenant's explanation satisfies the PHA that no violation has been committed, no further action is taken. If the explanation does not satisfy the PHA's concerns, the City notifies the tenant as soon as possible of any proposed action.

G. SELECTING ADMINISTRATIVE ACTIONS

Selecting an appropriate administrative action to be taken as the result of a violation is a judgment made by the staff of the PHA. The main factors that are considered are:

- The degree of tenant willingness to accept responsibility for his/her actions and the extent of cooperation in the matter.
- The tenant's ability to understand the rules.
- The duration of the violation and the period of time over which the violation occurred and the number of times the tenant made false statements.
- The amount of money involved.

- Whether the facts establish "intent" on the tenant's part.

Possible Administration Actions

The following actions may be taken as an administrative remedy to a program violation:

- Written warning.
- Transfer to an appropriate size unit.
- Termination of Housing Assistance.
- Denial of Participation/Occupancy to Applicants.
- Restitution. The PHA may request restitution in a lump sum, or enter into a formal Repayment Agreement.
- Civil Action.
- Federal Court or State Court prosecution, garnishments, and judgments.
- Referral to HUD for suspension, debarment, or limited denial of participation.

If the violation constitutes criminal fraud, criminal prosecution may also occur.

H. OPTIONS FOR DEFAULT OF A REPAYMENT AGREEMENT

A person is considered to have defaulted on a repayment agreement if two payments have not been made within 30 days of the payment due date. The PHA may take one or more of the following actions if a tenant defaults on a Repayment Agreement:

- File a Civil Suit.
- Terminate assistance payments.
- Criminally prosecute, if a plea agreement was violated.
- Refer the case to a collection agency.
- Report the delinquency to the Credit Bureau.
- Send Form 1099 MISC to the Internal Revenue Service.
- Recommend administrative sanctions by HUD.
- Refer the case to appropriate clearinghouses for unpaid debts.

If a family fails to sign a repayment agreement for monies owed within 30 days of our request to the family to sign and return the document, the PHA will also pursue one or more of the remedies outlined above.

I. FRAUD OR PROGRAM ABUSE BY PARTICIPATING LANDLORDS

All Landlords participating in the Section 8 programs administered by the PHA must certify that:

- There is management oversight of the assisted unit;
- The family members on the lease are the only individuals allowed to live in the unit, and that the landlord may not live in the unit;
- Maintenance is performed as required to maintain compliance with Housing Quality Standards;
- The tenants incur no additional charge amounts for rent or other items not specified in the lease which have not been specifically approved by the PHA;

- He/she is responsible for reporting vacancies immediately and in writing;
- Consent is granted for the PHA to conduct computer matches to verify compliance, and releasing and exchanging information regarding participation in the Section 8 program with other Federal and State agencies;
- He/she understands the administrative and criminal actions that can be taken for intentional violations.

J. FRAUD OR PROGRAM ABUSE BY CITY OF WESTMINSTER EMPLOYEES

The policy meant to deter fraud is applicable to all employees including management. Fraud is defined as the intentional, false representation or concealment of a material act for the purpose of inducing another to act upon it to his or her injury. Examples include:

- Bribery or kickbacks
- False claims or bid-rigging
- Theft, embezzlement, or other misapplication of funds or assets
- Forgery or alteration of documents
- Impropriety with respect to reporting financial transactions
- Profiting on insider knowledge
- Destruction or concealment of records or assets

All employees of the PHA are responsible for honesty and professional conduct in carrying out assigned duties. All employees must sign a copy of the following Standards of Conduct for Occupancy stating that they have read and understand the Standards and will not violate the prohibitions. All staff must also disclose any rental property or real estate activities in which they or their immediate family have any financial interest, and any connection with any business or property that receives benefits from HUD. The Standards are as follows:

- Do not accept any money, gifts, services, loans, entertainment, or anything else of value from applicants, tenants, or Section 8 landlords.
- Do not request, coerce, or threaten any person to do something for you as a condition for participating or remaining in an assisted housing program.
- Do not participate in an assisted program as a tenant or landlord unless properly disclosed and approved.
- Do not process an application for a relative or a business partner without prior approval of the appropriate officials.
- Do not give favored treatment to any person that is not permitted by law or local policies.
- Do not encourage or coach applicants, tenants, or landlords to ignore or violate any rule or policy.
- Do not ignore or fail to pursue questionable responses from applicants or tenants, or to appropriately investigate suspected violations.
- Do not falsely create, forge, or alter any documents that are used to determine eligibility or level of benefits in an assisted housing program.
- Do not submit or process any documents for nonexistent tenants or Section 8 landlords, or scheme with actual tenants or landlords to share any program benefits.

K. REPORTING SUSPECTED FRAUD

Where fraud is suspected, it should be reported to the Westminster Police Department at 410-876-1300, and to the HUD Office of the Inspector General, Office of Investigation for the Mid-Atlantic District, at 215-656-3410.

L. CONFIDENTIALITY

Any investigation resulting from suspected irregularities would not be disclosed to outsiders, except to the proper law enforcement authorities. Management will not retaliate against employees who report either fraudulent or no-fraudulent irregularities.

M. PHA INTERNAL INVESTIGATIONS

The PHA Executive Director has the authority to take control of and examine any and all records, and will conduct the PHA Internal Investigations.

Reporting Procedures

Employees suspecting fraud should report it to the PHA Executive Director and not attempt an investigation. Management and others should refrain from discussing the allegations with anyone other than those with a legitimate need to know.

Termination

Any recommendations to terminate employees should be reviewed by counsel and management.