DHCD
Maryland Department of Housing and Community Development

Housing Choice Voucher Program Administrative Plan

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Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodifies the U.S. Housing Act of 1937. The Act and its requirements have been amended from time to time, as they apply to the Section 8 Tenant-Based Assistance Program and are described in and implemented throughout this Administrative Plan. The Housing Choice Voucher Program is federally funded and administered by the Maryland Department of Housing and Community Development (DHCD) as the Public Housing Authority (PHA) through the Eastern Shore Regional office and other offices throughout Western Maryland. The Eastern Shore Regional Office and the Section 8 subcontractors may also be identified as Local Housing Agencies throughout this Administrative Plan.

Administration of the Section 8 Program, the functions, and the responsibilities of the PHA shall be in compliance with all applicable U.S. Department of Housing and Urban Development's (HUD) Section 8 Regulations, in conjunction with all Federal, State and local Fair Housing laws and regulations.

In addition to its office in Lanham, Maryland, DHCD administers the Housing Choice Voucher Program through following offices:

- Human Resources Development Commission -- Allegany County including Cumberland
- Frederick County Department of Housing and Community Development
- Garrett County Community Action Committee, Inc.
- Eastern Shore Regional Office -- Caroline County, Dorchester County, Kent County, Somerset County, Talbot County, Worcester County, Wicomico County

The State of Maryland and its partners strive to consistently meet the evolving housing needs of those who may not otherwise have the financial capacity to live in neighborhoods of their choice. Through the continued commitment to ethics and service, DHCD's standards for Program administration include but are not limited to:

- Administering the Section 8 Housing Choice Voucher Program according to applicable State and Federal laws in order to achieve the highest possible performance indicators according to the Section 8 Management Assessment Program (SEMAP)
- Providing quality housing opportunities in choice neighborhoods that consistently meet or exceed Housing Quality Standards (HQS) as set forth by the U.S. Department of Housing and Community Development

- Assisting the most vulnerable populations through targeted programs and voucher issuances such as the Veterans Affairs Supportive Housing (VASH), Family Unification Program (FUP), and the Non-Elderly Disabled (NED2) Housing Choice Voucher Program for example.
- Promoting fair housing and equal opportunity for low- and very-low income families throughout the region.
- Encourage self-sufficiency, meeting needs in a manner in which families may seek and maintain homeownership opportunity.

1. HOUSING AUTHORITY MISSION STATEMENT

The mission of DHCD as the PHA, is to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination.

2. LOCAL GOALS [24 CFR 982.1]

The following goals of DHCD are in conjunction with the strategic goals of HUD.

HUD Strategic Goal: Meet the Need for Quality Affordable Rental Housing.

Our goal is to expand the supply of assisted housing. To accomplish our goal of expanding the supply of assisted housing, we will:

- Apply for additional rental vouchers.
- Leverage private or other public funds to create additional housing opportunities.

Our goal is to improve the quality of assisted housing. To accomplish our goal of improving the quality of assisted housing, we will:

- Improve voucher management, using the Section 8 Management Assessment Program (SEMAP) scores.
- Increase customer satisfaction.

Our goal is to increase assisted housing choices. To accomplish our goal of increasing assisted housing choices, we will:

- Provide voucher mobility counseling.
- Conduct outreach efforts to potential voucher landlords.

HUD Strategic Goal: Use Housing as a Platform to Improve Quality of Life.

Our goal is to promote self-sufficiency and asset development of assisted households. To accomplish our goal of promoting self-sufficiency and asset development, we will:

- Provide or attract supportive services to improve assistance recipients' employability.

HUD Strategic Goal: Build Strong, Resilient, and Inclusive Communities.

Our goal is to ensure equal opportunity and affirmatively further fair housing. To accomplish our goal of ensuring Equal Opportunity and affirmatively furthering fair housing, we will:

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

3. PURPOSE OF THE PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to establish policies for DHCD to implement the programs in a manner consistent with HUD requirements, local goals and objectives contained in the Administrative Plan. DHCD is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. The original Plan and any changes and the pertinent sections included in the Agency Plan will be distributed to each office and a copy will be provided to HUD.

4. RULES AND REGULATIONS [24 CFR 982.52]

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance

5. TERMINOLOGY

The following terms are used frequently within this Administrative Plan:

- **1937 Act** means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*)
- **Applicant** refers to a family that has applied for admission to the Program but is not yet a program participant.
- **Failure to Provide** refers to all requirements in the first Family Obligation as described in Chapter 15 of this Plan.
- The term **Family** refers to a person or group of persons, as determined by the DHCD, approved to reside in a unit with assistance under the Program. Family may at times be used interchangeably with **Applicant** or **Participant**.
- **HAP Contract** refers to the **h**ousing assistance payments contract.
- **Household** means the family and any PHA-approved live-in aide**.**
- **HQS** refers to the **Housing Quality Standards** required by regulations, as may be enhanced by DHCD.
- **Landlord** and **owner** are used interchangeably within this plan and refer to a person or entity with the legal right to lease or sublease a unit to a participant
- The **Maryland Department of Housing and Community Development** is referred to as **DHCD** or **the PHA** in this document.
- **Non-Citizens Rule** refers to the regulation stating that housing assistance is limited to U.S. citizens and those with eligible immigration status. This regulation was effective June 19, 1995.
- **Participant** refers to a family that has been admitted to the PHA program and is currently assisted in the program.
- **PHA** means Public Housing Authority.
- The **Program** or **HCVP** refers to the Housing Choice Voucher Program.
- The **Section 8 Programs** are also known as the **Regular Tenancy Certificate**, **Over-Fair Market Rent (Over-FMR) Tenancy (OFTO)** and **Voucher Programs**.
- **Tenant** refers to a participant in terms of the relationship to landlord or project owner.

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

It is the policy of DHCD 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.

DHCD 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 or marital status, disability or sexual orientation.

To further our commitment to full compliance with applicable Civil Rights laws, DHCD will provide Federal/State/local information 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. All applicable Fair Housing Information and Discrimination Complaint Forms will be included in the briefing packet and will be available upon request.

All PHA staff will be required to attend Fair Housing training that stresses the importance of affirmatively providing fair housing and equal opportunities to all families, including making reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. In addition, staff will attend training sponsored by HUD and other local organizations to remain current with new developments.

Fair Housing posters are posted throughout the PHA offices. The equal opportunity logo will be used on all outreach materials.

Persons with disabilities shall not be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the facilities of the PHA are inaccessible to or unusable by persons with disabilities. Any exceptions are those identified in 24 CFR 8.21 (c)(1), 8.24 (a), 8.25 and 8.31. Display posters and housing information are displayed in locations throughout the PHA offices in such a manner that they are easily readable from a wheelchair.

The MD Department of Housing and Community Development offices are accessible to persons with disabilities. The Maryland Relay Service at (800) 735-2258 is available to those who are hearing impaired.

7. REASONABLE ACCOMMODATIONS POLICY [24 CFR 700.245(c)(3)]

It is the policy of this PHA to be service-oriented in the administration of our housing programs, and to demonstrate a high level of professionalism while providing housing services to families in compliance with the Section 8 regulation [24.CFR 700.245 (c)(3)].

A participant with a disability may ask for a specific change to a policy or practice as an accommodation of the disability. DHCD's policies and practices are designed to provide persons

with disabilities reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

The option to request an accommodation will be made public by including notices on PHA forms and letters. This policy is intended to provide 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 individuals without disabilities. This policy is applicable to all situations described in this Administrative Plan. Such situations include a family initiating contact with DHCD; DHCD initially contacting a family at the time of application; or DHCD scheduling appointments of any kind.

To be eligible to request a reasonable accommodation, the individual must certify (if apparent) or verify (if not apparent) that he or she is a person with a disability as defined by the Americans with Disabilities Act (ADA). The ADA definition includes:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
- A record of such impairment; or
- Being regarded as having such impairment.

Rehabilitated drug users and alcoholics are also covered under the Americans with Disabilities Act; however, a current drug user is not covered. In accordance with section 5.403(a), 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 persist if drug or alcohol abuse discontinued.

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

If DHCD finds that the requested accommodation creates an undue administrative or financial burden, DHCD will deny the request or present an alternate accommodation to meet the needs of the person. An undue administrative burden is one that requires a fundamental alteration of the essential functions of DHCD, such as waiving a family obligation. An undue financial burden is one that poses a severe financial hardship on DHCD to implement the requested accommodation.

DHCD will provide a written decision to the person requesting the accommodation within 14 calendar days of receipt of the request. If a person is denied the accommodation or feels that the alternative accommodation is inadequate, he or she may request an informal hearing with DHCD to review the decision.

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

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

7.1 Verification of Disability

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

7.2 Applying for Admission

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

To provide specific accommodation as requested, to persons with disabilities, the information may be mailed to the applicant, also in an accessible format.

The full application is to be completed in the applicant's own handwriting, at an eligibility appointment. A person may request assistance of accommodation if he or she has a special need due to a disability. DHCD staff will interview applicants and will review the completed application. Verification of disability, as previously described, will be requested at the time of the interview. The application includes specific questions as to whether reasonable accommodations for the applicant are necessary.

8. TRANSLATION OF DOCUMENTS

DHCD will comply with HUD's Limited English Proficiency (LEP) requirements by identifying LEP persons who need language assistance. DHCD will provide translated notices or make provisions for translation services.

9. MANAGEMENT ASSESSMENT OBJECTIVES

DHCD operates the Housing Assistance Program with efficiency. DHCD can demonstrate to HUD auditors that the program is using its resources in a manner that reflects its commitment to quality and service. Our policies and practices are consistent with the areas of measurement for the following HUD Section 8 Management Assessment Program (SEMAP) indicators:

- Selection from the Waiting List
- Reasonable Rent

- Determination of Adjusted Income
- Utility Allowance Schedule
- Housing Quality Standards -- Quality Control Inspections
- Housing Quality Standards Enforcement
- Expanding Housing Opportunities
- Fair Market Rent -- Exception Rent & Payment Standards
- Annual Re-examinations
- Correct Tenant Rent Calculations
- Pre-Contract Housing Quality Standards Inspections
- Annual Housing Quality Standards Inspections
- Lease-Ups
- Family Self-Sufficiency Enrollment and Escrow Account Balances
- Bonus Indicator Deconcentration

A Program Administrator will perform quality control reviews. Another qualified person may also perform the review, provided that person is not the one who originally did the work. As required by HUD, the quality control reviews are based on the following SEMAP factors:

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

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail. A minimum sample size to be reviewed will relate directly to each specific factor.

10. RECORDS FOR MONITORING PHA PERFORMANCE

To demonstrate compliance with HUD and other pertinent regulations, DHCD will maintain records, reports and other documentation for a specific time period. The time period established is in accordance with HUD requirements and allows an auditor, housing professional or other interested party to follow, monitor and/or assess our operational procedures objectively, accurately, and in accordance with SEMAP requirements regarding internal supervisory audits.

In addition to the required SEMAP documentation, PHA supervisory staff will perform audits with regard to the following guidelines:

- Minimum of 100% of all new admissions prior to DHCD's execution of the HAP Contract
- Minimum of 25% of all re-examinations each month

11. PRIVACY RIGHTS [24 CFR 982.551]

Applicants and participants, including all adults in the 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 to third parties. DHCD's policy regarding the release of information is in accordance with State and local laws, which may restrict the release of family information.

In reference to HUD's Enterprise Income Verification (EIV) information, the PHA will protect copies of sensitive data and destroy system-related records in accordance with HUD requirements.

DHCD practices and procedures are administered in a manner that safeguards the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location. In addition, the PHA staff will not discuss family information contained in any files, except on an as needed basis for business reasons.

12. FAMILY OUTREACH [24 CFR 982.153(b)(1)]

DHCD will publicize information regarding the availability of housing assistance and related services for families on a regular basis. For example, when DHCD's waiting list is open, DHCD will publicize the nature of housing assistance and availability for very low-income families in a general-circulation newspaper, minority media, and by other suitable means of publicity.

For those who cannot read, DHCD will distribute fact sheets to and initiate personal contacts with the broadcasting media as well as community service personnel. DHCD will also utilize public service announcements.

DHCD will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines. They in turn can make proper referrals for housing assistance.

13. OWNER OUTREACH [24 CFR 982.54(d)(5), 982.153(b)(1)]

DHCD 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 effort includes informing owners of applicable legislative changes in program requirements. DHCD encourages owners of decent, safe and sanitary housing units to lease to families with a housing choice voucher.

In addition to informing owners of legislative changes, DHCD may conduct periodic meetings with participating owners. These meetings provide an opportunity for DHCD to improve owner relations and to recruit new owners to participate in the tenant-based program. For their respective jurisdictions, the PHA offices will:

- Maintain a list of interested local landlords.
- Maintain a list of units available for the Housing Choice Voucher Program.
- Initiate personal contact with private property owners and managers through discussions and meetings.
- Offer printed material to acquaint owners and managers with the opportunities available under the program.
- Participate in community-based organizations comprised of private property and apartment owners and managers.
- Recruit property owners with property located outside areas of minority and poverty concentration.
- Apply for exception payment standards if the PHA determines it is necessary to make the program more accessible.
- Encourage program participation by owners of units located outside areas of poverty or minority concentration.
- Periodically evaluate 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 choice and better housing opportunities to families. Interested families and voucher holders are informed of a broad range of areas where

they may lease units within DHCD's jurisdiction. They are also 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.

DHCD periodically will also:

- Develop working relationships with owners and real estate broker associations.
- Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displaced families.
- Explain the program, including equal opportunity requirements and nondiscrimination requirements, Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

Chapter 2

ELIGIBILITY FOR ADMISSION

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

INTRODUCTION

This chapter defines the HUD and the PHA criteria for admission to the Housing Choice Voucher Program. The PHA's policy is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of interested families. DHCD will carefully review all information provided by the family. Families will be provided the opportunity to explain their circumstances, to furnish additional information, and to receive an explanation for any decision made by DHCD regarding the eligibility of that family to participate in the program.

1. ELIGIBILITY FACTORS [982.201(a) and 982.201(b)]

The Department accepts applications from families whose head of household or spouse is at least 18 years of age or from those considered emancipated minors under State law.

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

- An applicant must qualify as an eligible family.
- An applicant must be within the established Income Limits.
- In accordance with 24 CFR §5.216, applicants and participants (including each member of the household and including, live in aides, foster children and foster adults) are required to disclose his/her Social Security Administration assigned Social Security Number (SSN), with the exception to individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States) and have not been assigned a SSN. These individuals in most instances would not be eligible for a SSN.
- At least one member of the applicant family must be a citizen or a noncitizen that has eligible immigration status and verification as required.
- Members of the applicant household must not currently or in the past have engaged in activities prohibited by HUD pursuant to 24 CFR 982.553 which describes the requirements for mandatory denial of assistance. No family member has committed a drug related or violent criminal activity within the last 3 years.

- No family member is registered in the State/Federal sex offender registration program.

A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S citizenship or eligible immigration status is not eligible for housing assistance and cannot be housed.

A family that consists of two or more household members and at least one household member that has eligible U.S citizenship or eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR §5.520.

A family's initial eligibility for placement on the waiting list to participate in the program will be made in accordance with all eligibility factors. Eligibility factors need not be verified for a family at the time of placement on the waiting list.

Evidence of Citizenship/Eligible Immigrant Status need not be verified at the time of placement on the waiting list. Once a family is selected from the waiting list, the final eligibility process will include such verification. The Department may, however, question a family's eligibility at any time, regardless of the family's standing on the waiting list.

The Department reserves the right to prohibit admission of a household to the program if DHCD has reasonable cause to believe that a household member's illegal drug use or pattern of illegal drug use, drug-related criminal activity; violent criminal activity or other criminal activity may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the Department (including a DHCD employee or a DHCD contractor, subcontractor or agent).

2. FAMILY COMPOSITION [24 CFR 982.201]

An applicant for the voucher program must qualify as a family. A family includes the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together and such groups include, but are not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family;

- A near-elderly family;
- A family with disabilities;
- A displaced family; and
- The remaining member of a tenant family.
- One or more elderly or disabled persons living with one or more live in aides.
- 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.

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.

2.1 Head of Household

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

2.2 Spouse of Head of Household

Spouse refers to the husband or wife of the head of household.

For proper application of the Non-Citizens Rule, the definition of spouse refers to the marriage partner in such that in order to dissolve the marriage partnership, a divorce must be obtained. This definition of spouse also includes the partner in a common-law marriage. The term spouse does not apply to boyfriends, girlfriends, significant others, or co-heads of household.

2.3 Co-Head of Household

The co-head of household is an individual in the household who is equally responsible for the lease with the head of household. A family may have a spouse or co-head of household, but not both. A co-head of household does not qualify as a dependent.

2.4 Live-in Attendants/Aides

A family may include a live-in attendant/aide, provided that the attendant/aide:

- Is determined by the DHCD to be essential to the care and well-being of an elderly or disabled person; a near-elderly family (24 CFR 5.403)
- Is not obligated for the support of the person; and
- Would not be living in the unit except "the necessary supportive services" for a family member who is a person with a disability.).

A live-in attendant/aide is treated differently from a family member. The differences of a live-in attendant from a family member include the following factors:

- The income of the live-in aide is not included when determining eligibility or level of benefits.
- Live-in aides are not subject to the Non-Citizen Rule requirements.
- Live-in aides are not considered as remaining members of the tenant family.

Relatives are not automatically excluded from being live-in attendants. Relatives must meet all of the requirements of the live-in attendant/aide definition described above.

A live-in attendant/aide may only reside in the unit with the approval of DHCD. Written verification will be required from a competent professional, such as a doctor, social worker, or caseworker. This professional must provide written verification certifying that a live-in aide is needed for the care of the elderly or disabled person within the household. The verification must include the hours the care will be provided to that person.

DHCD has the right to refuse approval (or withdraw its approval) of a live-in attendant/aide if that individual:

- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- Has been convicted of drug-related criminal activity or violent criminal activity; or
- Currently owes rent or other amounts to DHCD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

2.5 Split Households Prior to Voucher Issuance

Occasionally a situation may occur that causes a family to become two, separate eligible families. Such situations include divorce or legal separation. DHCD will determine the placement of the two families on the waiting list, since both families cannot share the same original position on the waiting list. DHCD will utilize the following factors in making its determination:

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

The family is responsible for any documentation regarding these factors. 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 DHCD.

2.6 Multiple Families in the Same Household

Two families living together as one family may apply to the voucher program. For example, a mother, father, and their daughter with her husband and/or children will be considered one family unit.

2.7 Joint Custody of Children

Children who live with one parent 51% of the calendar year due to a joint custody agreement will be considered members of that parent's household. 51% of the calendar year is defined at 183 days (184 days in a leap year). It is not required that the minimum number of days be consecutive.

The parent whose address is listed in the school records of the children will be permitted to claim the school-aged children as dependents in situations in which both parents are trying to claim the children.

Families who claim joint custody or temporary guardianship will be required to complete a self-certification as documentation.

3. 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. HUD has established this limit as one that does not exceed 50% of the area median income. DHCD will not admit families whose income exceeds 50% of the area median income, with the exception of those families included in section 24 CFR 982.201(b) as follows:

- 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 120 days of voucher issuance. Programs include any federally assisted housing under the 1937 Housing Act.

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

- Low-income non-purchasing families residing in a project subject to a home-ownership 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 mortgage insurance contracts under 24 CFR 248.101.

- 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, DHCD will compare the Annual Income of the family to the applicable income limit for the family's size. If the family's annual income exceeds the established income limit, that family will be denied admission to the program and will be offered an informal review.

For a **multi-jurisdictional** PHA, the applicable income limit used for initial issuance of a voucher by DHCD is the highest income limit within the PHA's jurisdiction.

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 wish to live.

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

Social Security Number for applicant and each member of the household.

Families are required to provide verification of Social Security Numbers for all family members. This requirement also applies to persons joining the family after admission to the program. Persons who have not been issued a Social Security Number must sign a certification that they

have never been issued a Social Security Number.

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

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification of the Social Security Number within 60 days of the application; elderly persons must provide verification within 120 days.

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

To receive assistance, a family member must be a U.S. citizen or eligible immigrant. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD. Individuals, who are neither a U.S. citizen nor eligible immigrant, may elect not to contend their status. DHCD will provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

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

5.1 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 referred to as 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.

5.2 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 an informal review.

5.3 Non-Citizen Students

Non-Citizen students are defined by HUD and will be denied admission. They will be offered an opportunity for a review.

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

DHCD will apply the following criteria, in conjunction with the HUD eligibility criteria, as grounds for denial of admission to the program:

- The family must not have been terminated for violating any family obligation during a previous participation in the Section 8 Housing Choice Voucher Program for five (5) years prior to final eligibility determination.

- DHCD may make an exception, if the family member who violated the family obligation is not a current member of the household on the application.

- If any household member has been evicted from federally assisted housing for a serious violation of the lease other than drug related or violent criminal activity for five (5) years prior to the final eligibility determination. Federally assisted housing includes: Public Housing, Section 8 tenant based and project based, 221 (d) (3), BMIR, 236, 202 and 811 projects.

- DHCD will make an exception, if the family member who was evicted is not a current member of the household on the application.

- The family must pay any outstanding debt owed DHCD or another PHA as a result of prior participation in any federal housing program within 14 calendar days of PHA notice to repay. If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, DHCD may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.

- Any member of the family is convicted of drug-related or violent criminal activity within the past three years.

- If any family member has been convicted of manufacturing or producing methamphetamine in violation of any Federal or State law on the premises of an assisted housing project, including the building or complex on which the unit is located and the associated common areas and grounds.

- DHCD will check criminal history of adults in the household to determine whether any member of the family has violated any of the prohibited behaviors, as referenced in Chapter 15 of this Administration Plan. Such screening will apply to any member of the household who is 18 years of age or older.

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

- Debts owed to the PHA and information regarding termination from a federally assisted housing program will be maintained in EIV for a period of up to ten (10) years from the end of participation date.

7. TENANT SCREENING [24 CFR 982.307)]

DHCD will take into consideration any of the criteria for admission as described in Chapter 15 of this Administration Plan.

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

DHCD will not screen family behavior or suitability for tenancy. DHCD 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 families based on tenancy histories. Factors to be considered should include these guidelines from section [24 CFR 982.307(a)(3)]:

- Payment of rent
- Payment of 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

Compliance with other essential conditions of tenancy PHA information about tenant.

DHCD will give the owner:

- The family's current and prior address (as shown in the records)
- When a family wants to lease a dwelling unit, DHCD may offer the owner other information in the Department's possession, about the family, including information about the tenancy history of family members.
- DHCD must give the family a statement of the policy on providing information to owners. The statement must be included in the information packet that is given to a family selected to participate in the program. The Department policy must provide that DHCD will give the same types of information to all families and to all owners.

DHCD will advise families how to file a discrimination complaint against an owner. DHCD will suggest the family file a Fair Housing complaint. DHCD may also report the owner to HUD as a Fair Housing/Equal Opportunity violation, or report the owner to the local Fair Housing Organization.

8. ELIGIBILITY CHANGES 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.

9. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be removed from DHCD's Housing Choice Voucher Waiting List. Prior to removal from the waiting list, ineligible families will be notified in writing by DHCD. This written notification will explain the reason for denial. The family will also be given an opportunity to request an informal review or an informal hearing if they were denied due to non-citizen status. Chapter 19 of this Administrative Plan explains the review process.

10. PROHIBITED ADMISSIONS CRITERIA [24 CFR 982.202(b)]

Admission to the program will not be based on:

- The family's residence prior to admission. However, the PHA may target assistance for families who live in public housing or other federally assisted housing, or may adopt a residency preference (see § 982.207).
- Where the family will live with assistance under the program.
- Discrimination because of age, race, color, religion, sex, or national origin
- Discrimination because of disability
- 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.
- Other reasons as listed in Chapter 1 of this Administrative Plan.

Chapter 3

APPLYING FOR ADMISSION

INTRODUCTION

The policy of the Department to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply. In addition, all families are treated in a fair and consistent manner. This chapter describes the policies and procedures for completing an initial application for assistance, placement/denial of placement on the waiting list, and limitations on who may apply for assistance. The primary purpose of the application process is to gather information about the family. DHCD 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 DHCD waiting list that they apply to in accordance with this Administrative Plan.

1. OVERVIEW OF THE APPLICATION PROCESS

The purpose of application process is to permit DHCD to gather information and determine placement on the waiting list for program assistance. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for the Section 8 Housing Choice Voucher Program must complete a application form. Applications are accepted when a specific waiting list is open. When the waiting list is open, any family asking to be placed on DHCD 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. Applications will also be made available in an accessible format upon request from a person with a disability.

The application process will involve two phases. The first phase is the initial application for assistance, also referred to as a pre-application. This first phase determines the family's placement on the waiting list.

The pre-application will be dated and time-stamped by DHCD. It will then be maintained until 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 DHCD ensures the verification of all HUD and PHA eligibility factors is current. The family's eligibility for the issuance of a voucher is then determined.

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

2.1 Opening the Waiting List

DHCD maintains the waiting list for its respective jurisdictions. Each office will utilize the following procedures for opening its respective waiting list.

When DHCD opens its waiting list, it will advertise through public notice in a local newspaper of general circulation, minority publications and media entities. The public notices will include the location(s) and program(s) for which applications are being accepted. In addition, 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.
- Limitations, if any, on families who may apply.

DHCD will make notices available in an accessible format upon request. DHCD will provide all potential applicants with information that includes the program, address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline.

When the waiting list is open, DHCD will accept applications from eligible families. An application may be denied if there is good cause for not accepting the application, such as denial of assistance due to action or inaction by members of the family. Grounds for denial are further defined in Chapter 15 of this Administrative Plan.

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. When the period for accepting applications is over, Garrett County, Allegany County and the City of Cumberland, will add the new applicants to the lists by:

- Separating the new applicants into groups based on preferences in conjunction with the applicable tenant selection policy.
- Ranking applicants within each group by the date and time the application was received.

In the counties of Caroline, Dorchester, Frederick, Kent, Somerset, Talbot, Wicomico and Worcester, applications will be received through specific time frames. Preliminary applications will be sorted using industry software to create a waiting list for each of these counties. Applicable preferences will be applied.

When the application is submitted to DHCD, it establishes the family's date and time of application for placement on the waiting list. DHCD will announce whether applications will be placed on the waiting list by date and time or randomly ordered when forming it's waiting list, depending on the jurisdiction.

2.2 Closing the Waiting List

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

DHCD will announce the closing of its respective waiting list by public notice. DHCD **will give a minimum of five (5) calendar days' notice prior to closing the list**.

3. INITIAL APPLICATION PROCEDURES [24 CFR 982.204

DHCD will utilize a preliminary application form**.** The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, a staff person may complete the application by telephone. An application 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 upon request.

The purpose of the pre-application is to permit DHCD to initially assess the family's eligibility and to determine their placement on the waiting list, if applicable. Pre-applications will not require an interview. The information on the pre-application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

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

Applicants are required to provide written notification of any address changes. This notification is to be directed to the local housing office, where the applicant applied for assistance. Another form of notification is acceptable as a reasonable accommodation for a person with a disability.

Applicants are also required to update information on their application as requested by DHCD. DHCD may use the additional information to determine the family's interest in assistance.

5. TIME OF SELECTION [24 CFR 982.204, 5.410]

When funding is available, DHCD will select families from the waiting list in their determined sequence. The size of the family does not affect the selection process. Income targeting requirements, however, do have a role in the selection of the families from the waiting list.

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

6. COMPLETION OF A FULL APPLICATION

All preferences claimed on the pre-application, or while the family is on the waiting list, will be verified. This verification will occur after the family is selected from the waiting list, and prior to that family completing the full application.

For local preferences, the qualification for preference must exist at the time the preference is claimed and at the time of verification. The timing of the qualification is important because claim of a preference will determine the family's placement on the waiting list.

After the preference is verified and when DHCD is ready to select applicants, all applicants will be required to complete a full application

The full application will be mailed/communicated as requested as an accommodation to a person with a disability. DHCD may also mail the application to applicants with the interview appointment letter. If the application is mailed, DHCD will ask the applicant to complete the form and bring it to the scheduled interview.

6.1 Requirement to Attend an Interview

DHCD utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is accurate and complete. The interview is also used to provide information about the application and verification process to the family. In addition, the interview is an opportunity to advise the family of other DHCD services or programs that may be available.

All adult members are required to attend the interview. Exceptions to this requirement may be made for students attending school out of state or for family members for whose attendance would be a hardship.

If an applicant fails to appear for a pre-scheduled appointment, DHCD will automatically schedule a second appointment. If the applicant misses the second appointment without prior approval, the application is denied. If the applicant can provide acceptable documentation that an emergency prevented him or her from notifying DHCD, another appointment may be scheduled.

Reasonable accommodations may be requested for persons with a disability. For persons with a disability who require an advocate, 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 DHCD**,** the declarations and consents related to citizenship/immigration status and any other documents required by DHCD. Applicants will be required to sign specific verification forms for information not covered by the HUD form 9886. Failure to sign all required forms and to provide the required certifications and releases is grounds for denial of the application.

If DHCD determines at or after the interview that additional information or documentation is needed, DHCD will request the documentation or information in writing or other accessible format as a reasonable accommodation. The family will be given 14 calendar-days to supply the information.

If the information is not supplied within this time period, DHCD will provide the family a notification of denial for assistance. The family will be informed of their right to an informal review.

7. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures described in Chapter 7 of this Administrative Plan. Family composition, income, allowances, deductions, assets, full-time student status, eligibility, 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.

8. FINAL DETERMINATION/NOTIFICATION OF ELIGIBILITY [24 CFR 982.201]

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

9. DECISION TO DENY ASSISTANCE

Notice to applicant. The PHA must give an applicant prompt written notice of a decision denying admission to the program (including a decision that the applicant is ineligible, or denying assistance for other reasons). The notice must give a brief statement of the reasons for the decision. The notice must also state that the applicant may request an informal review of the decision, and state how to arrange for the informal review.

Chapter 4

ESTABLISHING PREFERENCES & MAINTAINING THE WAITING LIST

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

INTRODUCTION

An objective of the PHA is to ensure that families are placed in the proper order on DHCD's 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 adopted by DHCD to meet local housing needs. This chapter also defines the eligibility criteria for the preferences and explains DHCD's system of applying those criteria.

By maintaining an accurate waiting list, DHCD will be able to perform the activities designed to create an adequate pool of qualified applicants. DHCD can then use program funds in a timely manner as the result of having a pool of qualified applicants.

1. WAITING LIST [24 CFR 982.204]

All applicants will be selected from the waiting lists in accordance with policies, preferences and income targeting requirements defined in this Administrative Plan. (Exceptions to the policies may be made for Special Admissions to the program, as described in section B of this chapter.) DHCD will maintain information that guarantees proper selection from its waiting list.

The Eastern Shore Office of the Maryland Department of Housing and Community Development maintains a separate waiting list for each jurisdiction administered through that office.

The waiting lists will contain sufficient information to allow DHCD to properly select families who are next eligible for a housing choice voucher according to the selection policy utilized during the waiting list opening including the following information:

- Applicant Name;
- Family unit size (if applicable)
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

DHCD may find it needs additional information on the waiting list for waiting list management tasks.

2. SPECIAL ADMISSIONS [24 CFR 982.54(d)(3), 982.203]

HUD may periodically award funding that is targeted for specific families. DHCD must then use the assistance for those families under Special Admission procedures.

Special Admission families will be placed on the waiting list. DHCD will maintain separate records of these admissions.

Below are examples of situations in which funding may be designated by HUD for specific families:

- Families displaced because of demolition or disposition of a public or Indian housing project;
- Families residing in a multifamily rental housing project who are displaced because HUD sells, forecloses or demolishes the project;
- Families residing in housing covered by the Low Income Housing Preservation and Resident Home-ownership Act of 1990;
- Families residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

Below are programs, funded by HUD for which applicants will be placed on the waiting list:

- Non-Elderly Disabled Category 2 Referrals;
- Family Unification Program Referrals;
- Veterans Affairs Supportive Housing Referrals
- Mainstream 5;
- In those jurisdictions with a Moderate Rehabilitation Program, local preference is given to Moderate Rehabilitation families who are currently residing in a unit which is overcrowded or under-occupied and there is no appropriate unit size available in the Moderate Rehabilitation project for relocation.

Applicants, who are admitted under Special Admissions, are not maintained by DHCD on separate waiting lists. Information relative to the Special Admission will be placed in the applicant/participant's file as documentation.

3. WAITING LIST LOCAL PREFERENCES [24 CFR 982.207 & CFR 5.410]

3.1 Local Residency Preference-Applicants that live or work in the jurisdiction;

3.2 State Bridge Program Preference- Clients after 3 years of temporary assistance or after 5 years of temporary assistance (depending on length of Bridge subsidy);

3.3 HOPWA Preference- For continuation of assisted clients if HOPWA rental assistance isn't available.

3.4 State Section 811 Supportive Housing Preference-Applicants on the HCV waiting that meet the selection criteria for the State Section 811 program;

3.5 State Section 811 VAWA Preference- Victims of domestic violence where the perpetrator is the qualifying Section 811 household member and has since been terminated;

3.6 Housing First Preference-Supportive housing model that emphasizes permanent supportive housing to end homelessness.

HUD Notice PIH 98-64 eliminated the requirement for public notice and a period for public comment when changing the PHA's preference system. However, DHCD must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences. If it is impractical to do so because of the length of the waiting list, DHCD may provide notification to fewer than all applicants at any given time. [24 CFR 5.410(g)(h)]

4. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the PHA, will reserve a minimum of 75% of its Housing Choice Voucher new admissions for families whose incomes do not exceed 30% of the area median income. HUD refers to these families as **extremely low-income** families. DHCD will admit families who qualify under the extremely low-income limit to meet HUD's income-targeting requirement, regardless of preference.

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

DHCD is also exempt from this requirement if it is providing assistance to low- income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out. Opt-out refers to an expiring Section 8 Project-Based Housing Assistance Program Contract that the owner has elected not to renew.

5. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION [24 CFR 5.415]

If an applicant certifies that he or she qualifies for a preference, the qualification will be accepted without verification at the initial application. When the applicant is selected from the waiting list for the final determination of eligibility, the preference will be verified. If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the local preference and given an opportunity for a review.

6. SET-ASIDE FUNDING [24 CFR 982.203]

HUD will award funding for special programs. Families who are referred and qualify for the special programs will be placed on the waiting list and identified when special funding is available. Current special funding programs are FUP Vouchers, NED Category 2 Vouchers, VASH Vouchers, and Mainstream 5.

7. PREFERENCE AND INCOME TARGETING ELIGIBILITY

7.1 Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's preference. Applicants are required to notify DHCD in writing when their circumstances change. For example, 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, the family will be returned to the waiting list.

7.2 Other Housing Assistance [24 CFR 982.205(b)]

Other housing assistance means a housing subsidy other than assistance under the voucher program. Housing subsidy includes subsidy assistance under a federal housing program (including public housing), a State housing program, or a local housing program.

DHCD 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 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 selection policy.
- Remove the applicant from the waiting list.

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

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

DHCD's method for selecting applicants from a preference category creates a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in this Administrative Plan. DHCD will treat all local preferences equally.

9. FINAL VERIFICATION OF PREFERENCES [24 CFR 5.415]

Preference information on applications will be updated as applicants are selected from the waiting list for an interview. At that time, DHCD will obtain necessary third-party verifications of the preferences.

10. PREFERENCE DENIAL [24 CFR 5.415]

If DHCD denies a preference, the applicant will be notified in writing of the reasons for the denial and will be offered an opportunity for an informal meeting. 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 discrimination was a factor in the preference denial.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, he or she will be removed from the waiting list and given the right to an informal review.

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

DHCD may purge the waiting list every twelve to eighteen months, but not more than one time each year. Notices will be sent to all applicants to ensure the information on the waiting list is current and accurate. The notice will ask for confirmation of continued interest in participating in the program. A copy of this notice will be retained in the applicant file.

If an applicant fails to respond to the initial notice from DHCD, the applicant will be sent written notification and given 14 calendar days to contact DHCD. If the applicant fails to respond within 14 days, he or she will be removed from the waiting list. A copy of this written notification will be retained in the applicant/waiting list file.

An extension of 14 calendar days to respond will be granted, if requested and needed, as a reasonable accommodation for a person with a disability.

If the applicant did not respond to DHCD's request for information or update because of the applicant's disability or a family member's disability, DHCD will reinstate the applicant in his or her former position on the waiting list.

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

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, he or she will not be entitled to reinstatement unless the DHCD Section 8 Administrator for that jurisdiction determines there were circumstances beyond the applicant's control. Circumstances must be verified prior to reinstatement.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that the PHA 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 by DHCDs for the family unit size must be within the minimum unit size requirements of HUD's Housing Quality Standards. This chapter explains the subsidy standards used by DHCD to determine the voucher size for families when they are selected from the waiting list. This chapter also reviews DHCD's procedures when there is a family-size change, or a family selects a unit size that is different from the voucher.

1. DETERMINING VOUCHER SIZE [24 CFR 982.402]

DHCD does not determine who shares a bedroom/sleeping room. It does require that there must be at least one person per bedroom on the voucher. DHCD's subsidy standards for determining voucher size will be applied in a manner consistent with Fair Housing guidelines.

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

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

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

One bedroom will generally be assigned for each two family members. DHCD 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 attendant or aide.

Generally, DHCD assigns one bedroom to two people within the following guidelines (NOTE: a “generation” will be defined as an age range of 18 years if there is no parental relationship established:

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

- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship or two children of opposite sex whose cumulative age is less than 12 years.
- Foster children will be included in determining unit size.
- Live-in attendants will generally be provided a separate bedroom. Additional bedrooms will not be provided for the family of the live-in aides/attendants. Live-in aides/attendants do not have rights to the voucher.
- Space may be provided for a child or a dependent full-time student who is away at school but who lives with the family during school breaks.
- 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 in the military.
- Space will be provided for a child who is temporarily away from home because of placement in foster care.
- Persons of different generations will have separate bedrooms.
- A single pregnant woman with no other family members must be treated as a two-person family.
- Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING VOUCHER SIZE

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

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

DHCD may grant exceptions from the subsidy standards at the family's request. DHCD will determine the exceptions, if justified, by the relationship, age, sex, health or disability of family members, or other individual circumstances.

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

- Verified medical reason
- Health reason
- Elderly person requiring a live-in aide/attendant
- Persons with disabilities requiring a live-in aide/attendant

2.1 Request for Exceptions to Subsidy Standards

The family may request a larger voucher than indicated by DHCD's subsidy standards. Such request must be made in writing within 14 days of DHCD's determination of bedroom size. The request must justify the need for additional bedrooms. Documentation to support the need or justification will be required as appropriate.

DHCD will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health related reasons must be verified by a doctor or other health care professional.

2.2 Department Error

If DHCD designates the incorrect bedroom size, the family will be issued a voucher for the appropriate size. If the change in the voucher size benefits the family, the family will be issued a voucher immediately in the correct size. Otherwise, the voucher will be issued at the next annual recertification.

2.3 Changes for Applicants

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

2.4 Changes for Participants

The members of the family residing in the unit must be approved by DHCD. The family must obtain approval of any additional family members before the new member occupies the unit. The exceptions to this regulation include additions by birth, adoption, or court-awarded custody. The family must then inform DHCD within 14 days of the new member's occupancy in the unit. The previously referenced guidelines will apply.

2.5 Under-housed Voucher Families

If a unit does not meet the Housing Quality Standards space standards due to an increase in family size and the unit is too small, DHCD will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

2.6 Premerger Over-Housed and Under-Housed Certificate Families:

If a pre-merger certificate family is occupying a unit with more bedrooms than allocated, and the gross rent exceeds the Fair Market Rent/Exception Rent for that family size, DHCD will issue the family a new voucher. The new voucher will be of the appropriate size. DHCD will assist the family in finding a suitable unit.

Pre-merger certificate families who are under-occupying a unit will be issued a voucher and given 120 days to locate a new unit before assistance is terminated. DHCD 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 DHCD.
- DHCD and the family have been unable to locate a unit within 120 days.

3. UNIT SIZE SELECTED [24 CFR 982.402(c)

The family may select a different size dwelling unit other than that listed on the Voucher. There are three criteria that will be considered:

3.1 **Subsidy Limitation**: The family unit size as determined for a family under DHCD 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**:

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

3.2 **Utility Allowance**: The utility allowance is limited to the unit size or the voucher size issued, whichever is lower, irrespective of the actual size of the unit rented by the family, with an exception for families with a person with a disability.

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

HOUSING QUALITY STANDARD GUIDELINES FOR UNIT SIZE SELECTED

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

Chapter 6

TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

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

INTRODUCTION

DHCD will use the methods described in this Administrative Plan to verify and determine that family income at the time of admission and at the annual re-examination is correct. The accurate calculation of the 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, which are 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 as set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation.

This chapter addresses those areas in which the PHA has the discretion to define terms and to develop standards to assure consistent application by DHCD of the various factors that relate to the determination of TTP.

1. INCOME AND ALLOWANCES [24 CFR 5.609]

Annual income means all amounts, monetary or not, which:

- Are received by, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12–month period following admission or annual reexamination effective date; and
- Which are not specifically excluded in accordance with 24 CFR, Subpart F (Section 5.609) paragraph (c)
- Annual income also means amounts derived (during the 12–month period) from assets to which any member of the family has access.

In accordance with this definition, all income, which is not specifically excluded in the regulations, is counted.

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.

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:

- Dependent Allowance: $480 each for family members (other than the head of household or spouse) who are minors, and for family members who are 18 years of age and older who are full-time students or who are disabled.
- Elderly/Disabled Allowance: $400 per family for families whose head of household or spouse is 62 years of age or over, or disabled.
- Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
- Child Care Expenses: Deducted for the care of children under age 13 when child care is necessary to allow a member to work, attend school, or actively seek employment.
- Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities, if needed, to enable the individual or a family member to work.

2. MINIMUM RENT [24 CFR 5.616]

2.1 Minimum Rent

Minimum rent refers to the Total Tenant Payment calculated by DHCD and includes the combined amount a family pays towards rent and/or utilities. The PHA's minimum rent is $0**.** However, DHCD program administrators will:

Assist $0 rent families in obtaining financial assistance for which they may be eligible by providing information on social service agencies and other organizations.

2.2 Retroactive Determination

If the family is owed a retroactive payment, DHCD will provide reimbursement to the family in the form of a check payable to the family. DHCD will keep a record of the refund in the family's file.

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

3.1 Temporarily Absent

Temporarily absent is defined as away from the unit for less than 90 consecutive days. DHCD must compute all applicable income of each family member listed on the lease, including those who are temporarily absent. In addition, DHCD must count the income of a temporarily absent spouse or head of the household regardless if he or she is on the lease. Income of persons permanently absent will not be counted.

If the spouse or head of household is temporarily absent due to military service, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay as defined by HUD) are counted as income.

It is the responsibility of the head of household to report changes in the family composition, including any absences. DHCD will then evaluate absences from the unit.

3.2 Permanently Absent

Any member of the household will be considered permanently absent if he or she is away from the unit for 90 consecutive days, unless otherwise noted in this chapter. DHCD will not include the income of a permanently absent family member nor include the person in determination of voucher size. However, if the permanently absent family member is confined to a nursing home, then that family member's income may be included with the total household income. (See Part F – Income of person permanently confined to nursing home.)

If the **entire family** is absent from the unit for a period of 90 consecutive days, the entire family will be considered permanently absent and assistance will be terminated.

3.3 Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, DHCD will obtain verification from a competent professional source as to the likelihood and timing of the family member's return. If the verification indicates the family member will be permanently confined to a nursing home, that family member will be considered permanently absent. If the verification indicates that the family member will return within less than 90 consecutive days, that family member will not be considered permanently absent.

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

3.4 Absence Due to Shared-Custody Arrangements

Children who are subject to joint custody arrangements but live in the unit with a parent or guardian at least 51 % of the time (183 days of the year or 184 days in leap year) will not be considered as absent when away from the unit. The defined number of days does not need to be consecutive. A self-certification will be required of families who claim custody or temporary guardianship.

If both parents are Section 8 participants and 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.

3.5 Absence Due to Full-time Student Status

A full-time student, other than the head of household or spouse, who attends school away from home but lives with the family during school breaks may be considered either temporarily or permanently absent. It is up to the family to determine the status of the student.

If the family decides that the student family member is permanently absent, then:

- The student's income will not be included in total household income.
- The student will not be included on the lease.
- The student will not be included in the determination of voucher size.

3.6 Absence Due to Incarceration

If the sole member is incarcerated for more than 90 consecutive days, he or she will be considered permanently absent and assistance will be terminated. Any family member of the household, other than the sole member, will be considered permanently absent if that family member is incarcerated for more than 90 consecutive days in a twelve-month period. DHCD will determine if the incarceration is for drug-related or violent criminal activity. Incarceration for drug-related or violent criminal activity is grounds for termination of assistance. DHCD will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

3.7 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, DHCD will ascertain from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 12 consecutive months from the date of removal of the child/children, the voucher size may be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the DHCD's subsidy standards. .

3.8 Absence of the Entire Family

In cases where the family has moved out of the unit, DHCD will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

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

Families must notify DHCD at least 14 days before leaving the unit if they are going to be absent for more than 30 consecutive days. In the event of an emergency, families must notify DHCD no more than 5 days after leaving the unit.

If the entire family is absent from the assisted unit for 90 consecutive days, the unit will be considered vacated and assistance will be terminated. If the absence is due to medical reasons due to hospitalization, nursing home, rehabilitation, medical treatment and the family or sole member of the household is absent from the unit for more than 90 consecutive days, the unit will be considered vacated and assistance will be terminated.

The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason. At its discretion, the PHA may allow absence for a lesser period in accordance with PHA policy. Absence means that no family member is residing in the unit. In order to determine if the family is absent from the unit, DHCD may:

- Send letters to the family at the unit.
- Telephone the family at the unit.
- Verify if utilities are in service at the unit.
- Check with the post office for any change of address notification.

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

If the absence and resulting termination of assistance were due to a person's disability, DHCD may reinstate the family as an accommodation, if requested by the family, as long as the period was within 180 days. The reinstatement will depend upon verification by DHCD that the person

was unable to notify DHCD in accordance with the family's responsibilities, and the availability of funding for the assistance.

3.9 Caretaker for Children

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, DHCD will treat that adult as a visitor for the first 90 days.

If, by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher may be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, DHCD will review the status at 30-day intervals. If the court has not awarded custody or legal guardianship, but the action to do so is in progress, DHCD will secure verification from the social services agency or the attorney as to the status of the situation.

When DHCD approves a person to reside in the unit as caretaker for the children, the caretaker's income will be counted pending a final disposition. DHCD will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a family member of the household is subject to a court order that restricts him or her from the home for more than 90 consecutive days, the family member will be considered permanently absent.

3.10 Visitors

Any individual, not included on **HUD form 50058**, who has been in the unit more than 15 consecutive days or 90 days in a 12-month period without DHCD approval, will be considered living in the unit as an unauthorized household member. The absence of evidence of any other address will be considered verification that the visitor is a member of the household. Use of the unit's address as the visitor's current residence for any purpose that is not explicitly temporary shall also 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 DHCD will terminate assistance, since prior approval for that additional person was not requested.

Minors and college students who were part of the family but who live away from home during the school year and are no longer on the lease may visit for up to 90 consecutive 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 183 days per year (184 in a leap year), the minor will be considered an eligible visitor and not a family member.

3.11 Maximum Allowable Time

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report this to DHCD in writing within 14 days of the maximum allowable time.

An interim re-examination will be conducted for any additions to the household. The lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than those by birth, adoption or court-awarded custody.

3.12 Reporting Additional Household Members to DHCD

Reporting additions in household composition is both a HUD and a DHCD requirement.

The family obligations require the family to request DHCD approval to add any other member as an occupant of the unit. In addition, the family must inform DHCD of the birth, adoption or court-awarded custody of a child within 14 days of the child's arrival.

The family must request prior approval of additional household occupants in writing. If the family does not obtain prior written approval from DHCD, any person the family has permitted to move in will be considered an unauthorized household member.

3.13 Absence Due to Operation Enduring Freedom

HUD issued a Special Notice with general guidelines to PHAs for providing support for families and dependents for military personnel called to active duty during Operation Enduring Freedom, effective November 14, 2001.

HUD recommended that PHAs and owners consider the following actions as a demonstration of support to families who have family members called to active duty in the Armed Forces. Specific actions that a PHA or an owner should take to support Operation Enduring Freedom military families include, but are not limited to:

- Allowing a suitable guardian to move into the assisted unit on a temporary basis to care for any dependents the military person leaves in the unit. The income of the guardian temporarily living in the unit for this purpose is not counted in determining family income or the amount of rent the family pays based on family income.

- As previously defined, temporarily absent refers to a family member being away from the unit for less than 90 consecutive days. If the spouse or head of household is temporarily absent due to military service, all military pay and allowances, except hazardous duty pay (given when the service person is exposed to hostile fire) are counted as income.

- In relation to Operation Enduring Freedom, DHCD will monitor the household composition every 90 days.

3.14 Reporting Absences in Household Composition to DHCD

Reporting absences in household composition is both a HUD and a DHCD requirement.

If a family member leaves the household, the family must report this change to DHCD, in writing, within 14 days of the change and certify as to whether the member is temporarily or permanently absent.

DHCD will conduct an interim evaluation for changes that affect the Total Tenant Payment in accordance with the interim policy.

4. AVERAGING INCOME

When annual income for a family cannot be anticipated for twelve consecutive months, DHCD may average known sources of variable income to compute an annual income or annualize current income. If the current income is annualized, an interim re-examination will be conducted by DHCD if the family's income changes.

If there are bonuses or overtime, which the employer cannot anticipate for the next twelve months, then bonuses and overtime received the previous year will be used to calculate the average income.

If, by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used to reduce the number of interim adjustments. The method used to average income will depend on the regularity, source and type of income the family receives.

5. MINIMUM INCOME

There is no minimum income requirement. Families that report zero income may be required to undergo an interim recertification by DHCD every six (6) months. In addition, these families may be required to provide information regarding their means of basic subsistence, such as food, utilities, and transportation. If the family's expenses exceed their known income, DHCD will make inquiry of the head of household as to the nature of the family's accessible resources.

6. 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 another family member remains in the household, DHCD will calculate the income of the permanently confined family member through one of the following two methods:

- The income and deductions will be excluded for that family member, if his or her income goes directly to the facility; or
- The income and deductions of that family member will be included if his or her income goes to a family member.

The method used should be the one that results in a lower payment by the family.

7. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

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

Any contribution or gift received by the family at least once a month will be considered a regular contribution or gift, unless the amount is less than $ 100 per year. These funds include rent and utility payments made on behalf of the family. They do not include casual contributions or sporadic gifts. (See Chapter 7 for a further definition of contributions and gifts.)

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

8. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

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

If the amount of child support or alimony received is less than the amount awarded by the court, DHCD will use the amount awarded by the court unless the family can verify that they are not receiving the full amount. DHCD will accept verification that the family is receiving an amount less than the amount awarded if:

- Verification is received from the agency responsible for enforcement or collection, or
- 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.

9. 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 as income but may be included as 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 Social Security Income 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.

The amount of retroactive tenant rent the family owes, as a result of a lump sum receipt, will be determined by DHCD. DHCD uses a calculation method, which calculates retroactively or prospectively depending on the circumstances. DHCD will calculate prospectively if the family reported the payment within 14 days. DHCD will calculate retroactively to date of receipt if the payment was not reported within 14 days.

9.1 Prospective Calculation Methodology

If the payment is reported within 14 days, the calculation will be made prospectively and will result in an interim adjustment. The interim adjustment will be calculated by adding the lump sum in the same manner as for any interim that may occur prior to the next annual recertification.

9.2 Retroactive Calculation Methodology

If the payment is not reported within 14 days, the calculation will be made retroactive. DHCD will use the closer of either the date the lump-sum payment was received, or the date of admission. DHCD will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due to DHCD.

The amount owed by the family is a collectible debt even if the family becomes unassisted. DHCD may enter into a Repayment Agreement with the family.

9.3 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.

10. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(a-b)]

Contributions to company retirement/pension funds will be handled based on the circumstances as to how the family uses those contributions:

- While an individual is employed, the contribution that the family can withdraw without retiring or terminating employment is counted as an asset.

- After retirement or termination of employment, the amount the employee elects to receive as a lump sum payment is counted as an asset.

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

DHCD must count assets that were disposed of for less than fair market value during the two years preceding certification or re-examination. DHCD 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.

DHCD's minimum threshold for counting assets disposed of for less than fair market value is $5,000.00. If the total value of assets disposed of within a one-year period is less than $5,000.00, they will not be considered as assets.

12. CHILDCARE EXPENSES [24 CFR 5.603]

Childcare expenses for children under 13 years of age may be deducted from annual income if these expenses enable an adult to work, attend school full-time, actively seek employment. A parent can further his or her education, full-time, and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income. If the child attends private school, only before school or after school care hours can be counted as childcare expenses. Tuition expenses are not included as a deduction from annual income.

Childcare expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child and able to provide the childcare to the child. An exception to this requirement is an adult member who would be considered unable to care for the child, including:

- An abuser in a documented child abuse situation;
- A person with disabilities (as determined by a competent professional); or
- An older person unable to take care of a small child (as determined by a competent professional).

Allowable deductions for childcare expenses are 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. The person enabled to work will be the adult member of the household who earns the least amount of income from working.

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

- Amount of Expense: DHCD may survey the local care providers in the community to collect data as a guideline. If the hourly rate exceeds the guideline, DHCD may calculate the allowance using the guideline. DHCD will maintain records of its survey.

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

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

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense. Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

14. PRORATION OF ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

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 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 are performed on the HUD 50058 form.

15. REDUCTION IN BENEFITS

See Chapter 12 on Recertification's for information on income changes resulting from welfare program requirements.

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

DHCD uses the appropriate jurisdictional Utility Allowance Schedule for all tenant-based programs. Each jurisdiction's 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.

DHCD's jurisdictional 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.

DHCD 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: heating, air conditioning, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (for tenant-supplied refrigerator), range (for tenant-supplied range); and other specified services.

A tenant-paid air conditioning allowance will be developed and will be provided throughout DHCD's jurisdiction. The air conditioning allowance will only be granted to families when DHCD has confirmed that the unit actually has central air or an air conditioner in the unit.

The PHA will review the utility allowance schedule for each jurisdiction annually. If a utility rate has changed by 10% 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 implemented at the next re-examination.

The utility allowance is limited to the unit size or the voucher size issued, whichever is lower, irrespective of the actual size of the unit rented by the family, with an exception for families with a person with a disability.

When 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 currently owns either appliance.

The PHA will approve, upon request, a higher utility allowance for DHCD if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

When the calculation on the **HUD 50058 form** results in a utility reimbursement payment due the family, DHCD will provide a Utility Reimbursement Payment for the family each month. The check will be payable to the tenant or directly to the utility company.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 982.108]

INTRODUCTION

HUD regulations require that eligibility and factors that impact upon Total Tenant Payment be verified by the housing agency. DHCD will obtain written verification from independent sources whenever possible. Specific reasons for the unavailability of the verification will be provided. Tenant files will be documented if third party verifications are not available.

Applicants and participants must provide accurate and complete information to DHCD upon request. The PHA verification requirements are designed to maintain program integrity.

This chapter explains the procedures and standards for DHCD's verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. DHCD will obtain proper authorization from the family prior to requesting information from independent sources.

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

HUD has identified four acceptable methods of verification. These methods are prioritized in the following order:

1. Third-Party Written Verification
2. Third-Party Oral Verification
3. Review of Documents
4. Certification/Self-Declaration

DHCD will allow two (2) weeks to obtain third party written verification or third party oral verification. If DHCD is unable to obtain written or oral verification, an additional two weeks will be provided for the review of documents or for obtaining family certification/self-declaration documents. Since third party written verification is the preferred method of verification, DHCD will document the tenant file as to why third party written verification was not used when applicable.

Verifications are good for a specific time period. For applicants, verifications may not be more than 60 days old at the time of voucher issuance. For participants, verifications are valid for 120 days from date of receipt.

1.1 Third-Party Written Verification

The PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available:

- Reported family annual income;
- The value of assets;
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned by first class mail. The family will be required to sign an authorization for the source to release the specified information. Any verification received electronically and directly from the source will be considered a third party written verification.

The family may not hand-carry third party verification forms to the source under any circumstances. DHCD will, however, accept verifications in the form of computerized printouts delivered by the family from the following agencies:

- Social Security Administration
- Veterans Administration
- Welfare Assistance
- Unemployment Compensation Board
- City or County Courts
- Child Support Enforcement

DHCD will also accept verifications in the form of a computerized printout delivered by the family as noted under the acceptable forms of verification for income and allowances.

DHCD will send requests for third party written verifications to the source at all times regardless of whether the family provides a computerized printout if the print out does not provide the essential information needed to verify the information.

1.2 Third-Party Oral Verification

Third-party oral verification will be used when third party written verification is delayed or not possible. When third-party oral verification is used, staff will be required to include their written certification in the file of the third party oral verification noting with whom they spoke, the date of the conversation, and the facts provided. If the verification is provided by telephone, DHCD must originate the call.

1.3 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 (2) weeks, DHCD will annotate the file accordingly and utilize documents provided by the family as the primary verification source, provided that the documents include complete information.

All documents, excluding government checks, will be photocopied and retained in the applicant file. In cases in which the documents cannot be photocopied, staff will include a written certification in the file that they viewed the documents and will note the pertinent information within the file.

DHCD will accept the following documents from the family, provided that the documents are such that tampering or altering would be easily detected:

- Printed wage stubs
- Computer printouts from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents (noted in this chapter as acceptable verification)

DHCD will accept faxed documents as well as photocopies. If a discrepancy exists upon receipt of third party verification after the documents have been accepted as provisional verification, then the third party verification will be utilized.

DHCD will not delay the processing of an application beyond two weeks because a third party information provider does not return the verification in a timely manner.

1.4 Self-Certification/Self-Declaration

Families will be required to submit a self-certification/declaration if DHCD is unable to obtain third-party verification or view documents to verify information. A self-certification/declaration

is a notarized statement, affidavit, certification, or statement made under penalty of perjury that must be witnessed.

2. RELEASE OF INFORMATION [24 CFR 5.230]

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

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature. It is a family obligation to supply any information and to sign consent forms requested by DHCD or HUD. Refusal to cooperate with the HUD/DHCD prescribed verification system will result in denial of admission or termination of assistance.

3. COMPUTER MATCHING

Where allowed by HUD and/or other State or local agencies, computer matching will be processed. DHCD will utilize the Enterprise Income Verification system for obtaining Social Security benefits, Supplemental Security Income (SSI), benefit history and tenant income discrepancy reports from the Social Security Administration.

When computer matching results are in a discrepancy with DHCD information, DHCD will follow up with the family and verification sources to resolve the discrepancy.

4. ITEMS TO BE VERIFIED [24 CFR 982.516]

All income not specifically excluded by the regulations should be verified. The following items must be verified:

- Full-time student status, including high school students 18 years or older.
- Current assets including assets disposed of for less than fair market value in the preceding two years.
- Child cares expense that allows an adult family member to be employed or to further his or her education.
- Total medical expenses of all family members in households whose head of household or spouse is elderly or disabled.
- Disability expenses for costs associated with attendant care or auxiliary apparatus for a disabled member, which allow an adult family member to be employed.

- Disability for determination of preferences, allowances or deductions.
- U.S. citizenship/eligible immigrant status.
- Social Security Numbers for all family members 6 years of age or older who have been issued a social security number.
- Preference status.
- Familial or marital status, if applicable, for head of household or spouse.

Reduction in welfare benefits for noncompliance or fraud.

5. VERIFICATION OF INCOME [24 CFR 982.516]

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

5.1 Employment Income -Verification forms request the employer to specify the:

- Dates of employment,
- Amount and frequency of pay,
- Date of the last pay increase,
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months,
- Year to date earnings, and
- Estimated income from overtime, tips, and bonus pay expected during the next 12 months.

Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer.
2. Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms and income tax return forms.

4. Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, income from tips, and other gratuities.

   - If self-employment income is substantial, DHCD will request income tax returns signed by the family in lieu of self-certification.

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

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

5.2 Social Security, Pensions, Supplementary Security Income, Disability Income - Acceptable methods of verification include, in this order:

1. Benefit verification form completed by the agency providing benefits.

2. Award or benefit notification letters prepared and signed by the providing agency.

3. Computer report electronically obtained or obtained as a hard copy.

5.3 Unemployment Compensation - Acceptable methods of verification include, in this order:

1. Verification form completed by the unemployment compensation agency.

2. Computer report electronically obtained or as a hard copy, from unemployment office stating payment dates and amounts.

5.4 Welfare Payments or General Assistance - Acceptable methods of verification include, in this order:

1. Verification form completed by payment provider.

2. Written statement from payment provider indicating the amount of the grant or payment, start date of payments, and anticipated changes in payment in the next 12 months.

3. Computer-generated Notice of Action.

4. Computer-generated list of recipients from Welfare Department.

5.5 Alimony or Child Support Payments - Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amounts and types of support and payment schedules.

2. A statement from the agency that makes the payments on behalf of the court, indicating the amount and type of support payment schedule.

3. Copy of latest check or payment stub from Court Trustee. (DHCD must record the date, amount, and number of the check.)

4. A letter from the person paying the support.

5. Family's self-certification of amount received and of the likelihood of support payments being received in the future. The family may also self-certify that support payments are not being received.

If alimony or child support payments are irregular, the family must provide a copy of the separation or settlement agreement, or a divorce decree, stating the amount, type of support, and payment schedule. In addition, the family must also provide at least one of the following documents:

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

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

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

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

5.6 Net Income from a Business

In order to verify the net income from a business, DHCD will view the IRS and financial documents from prior years. This information will then be used to project the anticipated income for the next 12 months. Acceptable methods of verification include:

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

2. Audited or unaudited financial statement(s) of the business.

   - If accelerated depreciation was used on the tax return or financial statement, then an accountant's calculation of depreciation expense computed by the straight-line depreciation method must be provided.

3. Credit report or loan application within the prior six months.

4. Documents such as manifests, appointment books, cashbooks, 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 at the time of the request.

5. Family's self-certification as to net income realized from the business during previous years.

5.7 Child and Adult Care Business

If an applicant/participant is operating a licensed child or adult care business, income will be verified as with any other business. If the applicant/participant is operating a cash and carry business (licensed or unlicensed), DHCD will require that the applicant/participant complete a form for each customer. The form will include: customer name, phone number, number of hours of care is provided, method of payment (check/cash), amount paid, and signature of the customer.

5.8 Regular Contributions and Gifts

The family must furnish a self-certification for any regular contributions and gifts they receive. The self-certification should contain the following information:

1. The person who provides the gifts,

2. The value of the gifts,

3. The regularity (dates) of the gifts, and

4. The purpose of the gifts.

5.9 Zero Income Status

Families claiming to have no income will be required to execute verification forms to determine that income such as unemployment benefits, TANF, or SSI are not being received by the household. DHCD may request information from the Department of Labor to verify zero income status of a family.

5.10 Full-time Student Status

Only the first $480 of the earned income of full-time students, other than those who are head of household, co-head of household, or spouse, will be counted as part of the family income. Financial aid, scholarships and grants received by full time students are not counted toward family income. Verification of full-time student status includes a written verification from the registrar's office or other school official or copies of school records indicating the sufficient number of credits for full-time status designation. Typically, 12 or more credits/units is considered full-time, but with some occupational training programs, the actual number of credits/units may be lower and will be verified by the educational institution. At the next annual reexamination, the student must provide current enrollment information and official transcripts. If the student failed to successfully complete 12 or more credits (or the required minimum full time credits for the occupational program) during any of the preceding semesters, then they will not be classified as a full-time student. At the next annual reexamination following the removal of full-time student status, the member may again submit their current enrollment information and transcripts. If they are currently enrolled full-time and successfully completed 12 or more credits during both preceding semesters, then they will regain their full-time student status. Student status will not be retroactively awarded.

6. INCOME FROM ASSETS [24 CFR 982.516]

This section defines the methods DHCD will use to verify income from assets.

6.1 Savings Account Interest Income and Dividends - Acceptable methods of verification include, in this order:

1. **Account statements, passbooks, certificates of deposit, or verification forms completed by the financial institution.**

2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or as oral verification provided by a broker.

3. IRS Form 1099 from the financial institution, provided DHCD adjusts the information to project earnings expected for the next 12 months.

6.2 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 the 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.

6.3 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 such as tax statements, insurance invoices, bills for reasonable maintenance and utilities, bank statements, or amortization schedules showing monthly interest expense.

Renter's written statement verifying rent payments to the family and family's self-certification as to net income realized.

7. VERIFICATION OF ASSETS

7.1 Family Assets

DHCD will require the information necessary to determine the current cash value of the family's assets. The current cash value is the net amount the family would receive if the asset were converted to cash. Acceptable verification may include any of the following:

- Verification forms, letters, or documents from a financial institution or broker.
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- Quotes from a stock-broker or real estate agent as to the net amount the family would receive if they liquidated securities or real estate.

- Real estate tax statements if the approximate current market value can be deduced from assessment.
- Financial statements for business assets.
- Copies of closing documents showing the selling price and the distribution of the sales proceeds.
- Appraisals of personal property held as an investment.

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

7.2 Assets Disposed of for Less than Fair Market Value during Two Years Preceding the Effective Date of Certification or Recertification

For all certifications and recertification, DHCD 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 prior to 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 to document:

1. All assets disposed of for less than fair market value,
2. the date assets were disposed,
3. the amount the family received, and

   the market value of the assets at the time of disposition.

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

8.1 Child Care Expenses

Written verification from the person who receives the childcare payments is required. If the child care provider is an individual, he or she must provide a statement of the amount the family is being charged. 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. A certification from the family stating if any of the payments have been or will be paid or reimbursed by an outside source is also required.

8.2 Medical Expenses

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

One or more of the methods listed below will be used to verify all expense claims:

- Written verification or computer printout by a doctor, hospital/clinical personnel, dentist, or pharmacist of the anticipated medical costs to be incurred by the family, the regular payments due on medical bills, and the 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 or a computer printout from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months.
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- Copy 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. DHCD may use this approach for general medical expenses such as non-prescription drugs and regular visits to doctors or dentists. (This approach is not for one time)

- Non-recurring expenses from the previous year.
- DHCD will use mileage at the IRS rate for cab fare, bus fare, or other public transportation to verify the cost of transportation directly related to medical treatment.

Medical expenses for attendant care will be verified by:

- A competent professional's written certification that the assistance is necessary and a projection of the number of hours the care is needed.

- Attendant's written confirmation of hours of care provided along with the amount and frequency of payments received from the family or agency. Copies of canceled checks the family used to make those payments or stubs from the agency providing the services are acceptable forms of verification.

8.3 Assistance to Persons with Disabilities [24 CFR 5.611(c)]

Verification should include a written certification from a competent professional stating that the person with disabilities requires the services of an attendant or the use of auxiliary apparatus to permit him or her to be employed or to function independently to enable another family member to be employed. The family must also certify as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

- **For Attendant Care, verification must include:**

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

  2. Cost certification provided by the family and attendant and/or copies of canceled checks the family used to make payments.

- **For Auxiliary Apparatus, verification must include:**

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

9. VERIFYING NON-FINANCIAL FACTORS [24 CFR 982.153(b) (15)]

9.1 Verification of Legal Identity

In order to prevent program abuse, DHCD will require applicants to furnish verification of legal identity for all family members. The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required:

- Certificate of Birth
- Naturalization papers
- Church-issued Baptismal Certificate
- Current, valid Driver's License

- U.S. Military Discharge (DD 214)
- U.S. Passport
- Voter's Registration
- Company/Agency Identification Card
- Department of Motor Vehicles Identification Card
- Hospital records

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

- Certificate of Birth
- Adoption Papers
- Custody Agreement
- Health and Human Services ID
- School records

9.2 Verification of Marital Status

The following documentation is acceptable verification for the determination of spouse for income, deduction and noncitizen purposes:

- Certified copy of the Divorce Decree, signed by a Court Officer
- Copy of Court-ordered Maintenance or Separation Agreement
- Marriage Certificate

9.3 Familial Relationships

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

- Verification of Relationship
  1. Official identification showing names
  2. Birth Certificates
  3. Baptismal certificates
- Verification of Custody or Guardianship:
  1. Court-ordered assignment
  2. Affidavit of parent
  3. Verification from social services agency
  4. School records

9.4 Verification of Permanent Absent Family Member

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

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled rent checks, driver's license, lease, or rental agreement.
- 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 residing in the unit.
- If the adult family member is incarcerated, a document from the Court or correctional facility stating the length of incarceration.
- If no other documentation can be provided, DHCD will accept a notarized, self-certification from the head of household, co-head of household or spouse.

9.5 Verification of Change in Family Composition

DHCD may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, school records, Department of Motor Vehicle records, or other reliable sources.

9.6 Verification of Disability

Verification of disability must include 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). The disability may also be verified by a competent professional such as physician, psychiatrist, psychologist, therapist, rehabilitation specialist, or licensed social worker, using the required HUD language as the verification format.

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

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

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. DHCD will not require citizens to provide documentation of citizenship.

Eligible Immigrants who were participants and 62 years or older as of June 19, 1995, 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 designates the Manager of the Eastern Shore Regional Program as the person who will verify eligible immigration status of non-citizens.

When DHCD has a non-citizen that claims eligible immigration status, DHCD must forward copies of the signed declaration of status and immigration documents to the Manager of the Eastern Shore Regional Program. The Manager verifies the status through the INS SAVE system. DHCD will be notified of the results upon receipt of the INS SAVE verification. If this primary verification fails to verify status, the Eastern Shore Regional Program Manager must

request within ten days that the INS conduct a manual search. The Manager will provide the results of the INS manual search to DHCD.

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

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. These students are listed on the statement of ineligible members.

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

9.8 Time of Verification

For applicants at the initial application, verification of U.S. citizenship/eligible immigrant status occurs at the same time as that of verification of other factors for final eligibility determination. DHCD will not provide assistance to any family prior to the affirmative establishment of U.S. citizenship/eligible immigrant status and verification of the eligibility of the individual or at least one member of the family.

DHCD will verify the U.S. citizenship/eligible immigration status of all participants no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998.

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

Verification of U.S. citizenship/eligible citizenship status for portability families must be obtained, if the initial PHA does not supply the documents.

9.9 Extension of Time to Provide Documents

DHCD will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

9.10 Acceptable Verification Documents

The regulations currently stipulate that only the following documents are acceptable as verification of eligible immigration status (Changes are published in the Federal Register):

- Resident Immigration Card (I-551),
- Immigration Registration Receipt Card (I-151),
- Arrival-Departure Record (I-94),
- Temporary Resident Card (I-688),
- Employment Authorization Card (I-688B), and
- 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 an acceptable means of verification. All verification documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

If DHCD determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for 24 months unless the ineligible individual has been considered in prorating the family's assistance. If DHCD seeks to terminate housing assistance, the family will be provided a notice of termination and the right to an informal hearing.

9.11 Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers, if issued, must be provided as a condition of eligibility for all family members age six and over. The verification of Social Security numbers will be the 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 the family member’s Social Security number may be used for verification.

The family is also required to certify in writing that any documents submitted in lieu of the Social Security card are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company

- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage, divorce, judgment or bankruptcy records
- Verification of benefits from the Social Security Administration

New family members ages six and older will be required to produce their Social Security card or provide the substitute documentation described above, with their certification that it is complete and accurate. This information is to be provided at the time the change in family composition is reported to DHCD.

If an applicant or participant is able to disclose the Social Security number but cannot provide the documentation requirements, the applicant or participant must sign a certification to that effect provided by DHCD. The applicant/participant or family member will have an additional 30 days to provide proof of the Social Security number. If he or she fails 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 up to a total of 120 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 he or she has not been issued a number, that family member will be required to sign a certification to that effect.

10. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 5.410-5.430]

10.1 Local Preferences

Residency Preference: This preference is for families that live within the jurisdiction of DHCD’s HCV Program for which they applied. To verify that an applicant is a resident, DHCD will require the following:

An executed lease and rent receipts.

Government agency records and utility bills in the name of the head of household or spouse.

Current driver's license/equivalent identification or voter's registration card and utility bills in the name of the head of household or spouse.

Documentation that the head or spouse is employed at least 20 hours per week in the jurisdiction they applied for assistance.

10.2 Moderate Rehabilitation Program Funding

Local preference is available for families currently residing in a moderate rehabilitation unit which is overcrowded or under-occupied and there is not an appropriate size unit available in the project for relocation. DHCD inspection report must document the overcrowded or under-occupied status. In addition, a statement must be provided from the landlord that no applicable unit size is available for relocation in the moderate rehabilitation project.

10.3 Targeted Funding

Applicants who claim eligibility for targeted funding will have their status verified in accordance with the specific requirements designated by HUD for the targeted funding.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The goals and objectives of the PHA are designed to assure that families selected to participate in the program are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the office issuing the voucher 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, 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.

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

When funding is available, DHCD will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that DHCD maintains 100% lease-up. DHCD performs a monthly calculation electronically or manually to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent DHCD can issue more vouchers to achieve leasing goals. If DHCD finds it is over-leased, it must adjust future issuance of vouchers to avoid exceeding the budget limitations for the fiscal year.

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

2.1 Initial Applicant Briefing

A HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted for groups or as an individual meeting**.** Families who attend group briefings and still have the need for individual assistance will be referred to DHCD's Program Administrator. Translation services will be provided for non-English speaking families upon request.

The purpose of the briefing is to explain how the program works, family and owner responsibilities, where the family may lease a unit, including renting a dwelling unit inside or

outside the PHA jurisdiction and review the documents in the voucher briefing packet. The briefing will enable families to utilize the program to their advantage, and it will prepare them to discuss the program with potential owners and property managers.

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 DHCD, may be denied admission. DHCD will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

2.2 Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program comply with all HUD requirements. If the family includes a person with disabilities, DHCD will ensure compliance with section CFR 8.6 to ensure effective communication with that family and that they receive the same packet information.

The family is provided with the following information and materials:

- A general description of the Housing Choice Voucher Program
- Family and Owner responsibilities
- Information packet including an explanation of how portability works, a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each location for use by families who move under portability.
- A map of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.
- Information regarding DHCD's Outreach Program that assists families who are interested in, or experiencing difficulty with obtaining available housing units in areas outside of minority concentrated locations.
- A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration**.**
- The term of the voucher and the policy for requesting extensions or suspensions of the term.
- A description of the method used to calculate the housing assistance payment for a family, including:

  - How DHCD determines the payment standard for a family
  - How DHCD determines total tenant payment for a family
  - Information on the payment standard and utility allowance schedule
  - How DHCD determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard

- Where the family may lease a unit. For a family that qualifies to lease a unit outside DHCD's jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD required Tenancy Addendum, which must be included in the lease.
- The Request for Tenancy Approval form and a description of the procedure for requesting approval for a unit.
- A statement of DHCD policy on providing information about families to prospective owners.
- DHCD Payment Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure "A Good Place to Live" on how to select a unit that complies with Housing Quality Standards and/or the HUD brochure on how to select a unit.
- The HUD brochure on lead-based paint and information regarding the availability of lead blood-level testing.
- Information on Federal, State and local equal housing opportunity laws and a copy of the Housing Discrimination Complaint form. DHCD will also include the pamphlet "Fair Housing: It's Your Right." Additional information about fair housing laws, guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office will be included.
- A list of landlords or other parties willing to lease to assisted families or help in the search along with known units available for the voucher 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 DHCD will provide assistance in locating accessible units and a list of available accessible units known to DHCD.
- The Family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which DHCD may terminate assistance for a participant family because of family action or failure to act.
- DHCD informal hearing procedures including when DHCD is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- DHCD's Utility Schedule with a general explanation of how it works.
- Housing Quality Standards checklist and a sample Housing Assistance Payments Contract.
- Procedures for notifying DHCD and/or HUD of program abuses such as separate agreements, side payments, extra charges, violations of tenant rights, and owner's failure to make repairs.
- Requirements for reporting changes between annual recertifications.
- Information on security deposits and legal referral services.
- If applicable, the Family Self-Sufficiency Program and its advantages.

Additional requirements for program offices in the Metropolitan Statistical Areas (MSA) of Frederick County, Allegany County and the City of Cumberland include:

2.3 Move Briefing

A move briefing will be held for participants who will be reissued a Voucher to move and who have been recertified within the last 120 days and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

2.4 Owner Meetings/Briefings

Periodically, DHCD will hold briefings for current and prospective owners. The purpose of the meeting is to assure successful owner participation in the program. The meeting covers the responsibilities and roles of the owner, tenant, and DHCD.

3. ENCOURAGING PARTICIPATION IN AREAS OUTSIDE OF LOW INCOME OR MINORITY CONCENTRATION

DHCD will inform voucher holders of the full range of areas where they may lease units both inside and outside the local jurisdiction. DHCD must also supply instructions and assistance in accessing and using web-based services that provide listings of available rental units including units outside areas of poverty or minority concentration.

At the briefing, families are encouraged to search for housing in non-impacted areas. DHCD will provide assistance to families who wish to do so.

The Department has areas of poverty and minority concentration clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas. DHCD has maps that show various areas and information about facilities and services in neighboring areas such as schools, transportation, supportive, and social services.

The Department will investigate and analyze identified problems when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration. The assistance provided by DHCD to such families includes:

- Providing families with a search record form to gather and record information.
- Offering direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Conducting formal or informal discussions with landlord groups.
- Conducting formal or informal discussions with social service agencies.
- Meeting with rental referral companies or agencies.
- Meeting with fair housing groups or agencies.

4. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

DHCD will give voucher holders/participants a copy of **HUD form 903** to file a discrimination complaint. DHCD must also assist the family in completing and filing the housing discrimination complaint.

5. 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:

- DHCD may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. (or the maximum prescribed by Maryland or local law.)

For lease-in-place families, responsibility for the first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

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

During the briefing session, each family will be issued a voucher. The voucher represents a contractual agreement between DHCD and the family and specifies the rights and responsibilities of each party. It does not constitute admission to the program. Admission to the program occurs when the lease and contract become effective.

6.1 Expirations/Extensions

The voucher is valid for a total period of 60 days from the date of issuance. A thirty (30) day extension may be approved by the Housing Specialist. The extension will only be granted after the provision of documentation of the family's search efforts. The family must provide a log or listing of the properties which they have attempted to rent and an explanation as to why they were unable to rent each unit.

Upon receiving a request, either written or oral, from a household that includes a member with a disability, DHCD will extend the voucher term by 30 days if needed as a reasonable accommodation to make the program accessible to and usable by a person with a disability and after the provision of documentation of the family's search efforts. Request for additional extensions may be made but must be accompanied with documentation of the family's search efforts or other justifications as to why an extension should be granted. Requests for extensions are to be made before the voucher expires. If the request for an extension is not made before the

voucher expires because of extenuating circumstances such as hospitalization, an extension may be granted with the approval of the Director or designee.

6.2 Tolling Time

The initial voucher term is sixty (60) days. The term is suspended upon the submission of an RFTA. If the RFTA does not result in an authorized lease up, the voucher term will resume from the date of the RFTA submission. If a family submits an RFTA on day 30 of the initial 60-day voucher term, the unit passes rent reasonableness and the HQS inspection but 15 days after the RFTA was submitted the owner decides to rent to another person. The voucher becomes active again with 30 days tolling time. The time between submission of the RFTA and the reactivation of the voucher (15 days) is considered as tolling time. Tolling time is not considered part of the term of the voucher (either the original 60 days or the extension). However, no voucher shall remain in effect for more than 150 calendar days from the date of initial issuance, unless: (a) the voucher holder is a person being displaced due to public action; or (b) as a reasonable accommodation for a person with a disability; or (c) because of extenuating circumstances, such as hospitalization. In these cases, an additional extension and/or increase in maximum voucher life (150 days) may be granted at the discretion of and with written authorization by the Director or designee.

If the voucher has expired and has not been extended by DHCD or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing where a voucher has expired and an extension has not been granted.

6.3 Assistance to Voucher Holders

Families who require additional assistance during their search may call the housing office where they received their voucher to request assistance. Voucher holders will be notified at their briefing session when DHCD periodically updates the listing of available units and how the updated list may be obtained.

DHCD will assist families with owner negotiations and provide other assistance related to the families' search for housing.

7. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS

24 CFR 982.315]

Occasionally a situation may occur that causes a family to become two, separate eligible families prior to voucher issuance. Such situations include divorce or legal separation. DHCD in the absence of a court decision will determine which family member retains the voucher, since both families cannot share the same voucher. DHCD will utilize the following factors in making its determination:

1. Which family member was listed as head of household at voucher issuance?

2. The interest of minor children or of ill, elderly, or disabled family members and whether the assistance should remain with family members remaining in the unit.

3. Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, stalking, or sexual abuse. Whether any of the family members are victims of domestic violence, dating violence, stalking, or sexual.

4. What recommendations of social service agencies or qualified professionals such as children's protective services have been made available?

The family is responsible for any documentation regarding these factors. If either or both of the families do not provide the documentation, they may be denied assistance for failure to supply information requested by DHCD.

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

To be considered the remaining member of the tenant family, the member must have prior approval from DHCD 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. For a minor child to continue to receive assistance as a remaining family member one of the following must occur:

- The court must award emancipated minor status to the minor; or

- DHCD must verify that Social Services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the minor child for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit 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 to provide eligible families timely assistance based on the number of units that have been budgeted. 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 DHCD or outside of DHCD's jurisdiction if the family is eligible 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 DHCD. This Chapter defines the types of eligible housing, the policies pertaining to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

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

The family must submit the RFTA and a copy of the proposed Lease, including the HUD prescribed tenancy addendum, **during the term** of the voucher. The family must submit the Request for Tenancy Approval in the form and manner required by the PHA. Both the owner and the voucher holder (or the household's designated representative) must sign the RFTA. DHCD will not permit the family to submit more than one RFTA at a time.

DHCD will review the proposed lease for HUD requirements and the RFTA to determine whether or not the documents are acceptable for approval. The request will be approved if:

- The unit is an eligible type of housing for program assistance.
- The unit has been inspected by the PHA and meets HUD's Housing Quality Standards and any other criteria identified in this Administrative Plan.
- The rent to the owner is determined reasonable.
- The security deposit is in accordance with any limitations outlined in this Administrative Plan.

- The proposed lease complies with HUD and DHCD requirements.
- The owner is approvable.
- There are no conflicts of interest regarding the owner.
- The lease includes a tenancy addendum.

In addition to the above criteria, the family share of rent may not exceed 40% of the family's monthly adjusted-income if the gross rent exceeds the Payment Standard for the locality at the time a family initially receives assistance or moves to another unit with continued assistance. (See Chapter 11 for of this Administrative Plan for more information.)

1.1 Disapproval of RFTA

If DHCD determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. DHCD will instruct the owner and family of the steps that are necessary to approve the request. When a RFTA is not approved, the PHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

2. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353, 982.54(d) (15)]

DHCD will approve any of the following types of housing in the voucher program for all families, all structure types, including:

- manufactured homes in which the tenant leases the mobile home and the pad;
- manufactured homes in which the tenant owns the mobile home and leases the pad;
- units owned, but not subsidized by DHCD following HUD-prescribed requirements; or
- other housing not regarded as ineligible by HUD.

2.1 Special Housing Types for Persons with Disabilities or Elderly

In addition to the above housing, persons with disabilities may request as a reasonable accommodation or elderly persons 62 years of age or older may request permission to lease one of the following housing types:

- Group Homes
- Congregate Housing
- Shared Housing
- Cooperative Housing

(See Chapter 20 of this Administrative Plan for more information on Special Housing Types for Persons with Disabilities and the Elderly.)

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

DHCD may not permit a Voucher holder to lease a unit that is receiving Project-Based Section 8 Assistance or any duplicative rental subsidies.

3. LEASE REVIEW [24 CFR 982.308]

The owner or owner's representative and the tenant must have legal capacity to enter a lease agreement under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the Request for Tenancy Approval.

The family and owner must submit a standard form lease used in the locality by the owner. The lease should generally be used for other, unassisted tenants. By executing the Housing Assistance Payments Contract, the owner or the agent certifies that the terms and conditions of the lease are consistent with State and local law. The HUD prescribed Tenancy Addendum must be included in the lease word-for-word before the lease is executed. The owner's lease must also specify all of the following:

1. Names of the owner (and the owner's agent, if applicable) and tenant;
2. The unit rented (address, apartment number, and any other information needed to identify the contract unit);
3. The term of the lease (initial term and provision for renewal);
4. The amount of the monthly rent to the owner; and
5. A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

House rules of the owner may be attached to the lease as an addendum. By executing the Housing Assistance Payments Contract, the owner also certifies that the house rules do not violate State or local laws, violate any fair housing provisions and do not conflict with the tenancy addendum.

3.1 Actions Before Lease Term

All of the following actions must be completed before the beginning of the initial term of the contract for a unit:

1. DHCD has inspected the unit and has determined that the unit satisfies the Housing Quality Standards;

2. The landlord and the tenant have executed the lease, including the HUD-prescribed Tenancy Addendum; and

3. DHCD has approved leasing of the unit in accordance with program requirements.

4. Provide the following required documentation prior to lease signing as applicable:

   MDE Lead Certification

   Property Registration

   Multifamily Dwelling Registration Management/Agent Agreement

4. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease. The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

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

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a

separate agreement, the family must have the option of not utilizing the service, appliance or other items.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, 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 DHCD. If agreements are entered into at a later date, they must be approved by DHCD and attached to the lease.

DHCD 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.

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

See Chapter 10 of this Administrative Plan for information regarding inspections.

6. RENT LIMITATIONS [24 CFR 982.503]

DHCD 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 on the premises.

7. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

If the proposed rent is not reasonable, at the family's request, DHCD will negotiate with the owner to reduce the rent to a reasonable rent.

If the rent can be approved after negotiations with the owner, DHCD will continue processing the Request for Tenancy Approval and Lease.

If the owner does not agree on the Rent to Owner after DHCD has tried and failed to negotiate a revised rent, DHCD will inform the family and owner of the disapproval.

8. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, DHCD will furnish prospective owners with the family's current address as shown in DHCD's records. If known to DHCD, the name and address of the landlord at the family's current and prior address will be included on the RFTA. No other information will be given to prospective owners.

Upon receipt of appropriate documentation from the family**,** DHCD will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or a witness protection program.

DHCD 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 DHCD's policy on the release of information to prospective landlords will be included in the briefing packet provided to the family.

DHCD will not provide documented information regarding tenancy history to prospective landlords.

9. OWNER DISAPPROVAL [24 CFR 982.306]

See Chapter 16 of this Administrative Plan.

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

When the family reports any changes that will affect the Total Family Payment prior to the effective date of the Housing Assistance Payment (HAP) contract at admission, the information will be verified and the Total Family Payment will be recalculated. If the family does not report any changes, DHCD need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

11. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

DHCD prepares the Housing Assistance Contract (HAP) and Tenancy Addendum for execution. The family and the owner will execute the lease agreement, and the owner and DHCD will execute the HAP contract. Copies of these documents will be furnished to the parties who signed the respective documents. DHCD will retain a copy of all signed documents.

DHCD 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.

DHCD's Program Administrators are the PHA representatives and are authorized to execute a contract on behalf of the PHA**.**

Before the execution of the Housing Assistance Payments contract, the owner must provide DHCD with a completed W-9 form, if required. Each owner must also provide an Employer Identification Number or Social Security Number.

DHCD will use the information in the lease agreement to conduct business with the owner until such time as the owner provides DHCD with a replacement agreement or legal proof of a change in ownership.

Unless the lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. DHCD will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. Housing Quality Standards are required both at initial occupancy and during the term of the lease. These 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.

DHCD will inspect each unit under contract at least annually. DHCD will also have an inspector perform annual quality control inspection reviews on the number of units required by SEMAP.

This chapter describes DHCD procedures for performing HQS and other types of inspections, and DHCD 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 the family and the owner.

The use of the term **HQS** in this Administrative Plan refers to the combination of both HUD and PHA requirements administered by DHCDs. In addition to those requirements mandated by HUD, the PHA has adopted a requirement that states window screens and screen doors must be in place between April 1 and October 31 each year.

1. GUIDELINES OF INSPECTIONS [24 CFR 982.401 (a), 982.405]

Efforts will be made at all times to encourage owners/agents to provide housing above the minimum HQS requirements. The PHA and DHCDs will not promote any additional acceptability criteria that may adversely affect the health or safety of participant families, or severely restrict their housing choices.

All utilities must be in service prior to any inspection. If the tenant is responsible for supplying the stove and/or refrigerator, DHCD will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The rating on the inspection will be inconclusive until DHCD conducts an inspection and determines that a working stove and/or refrigerator are present in the unit.

There are seven types of inspections DHCD will perform:

- Initial/Move-in: conducted upon receipt of Request for Approval of Tenancy.
- Annual: must be conducted within twelve months of the last annual inspection.
- Biennial Inspection: Must be conducted within two years of the last passed annual inspection.
- Re-inspection: Follow-up for failed or incomplete inspections.
- Special/Complaint: conducted at the request of the owner, family or an agency/third party.

  Quality Control: conducted periodically to ensure the inspectors are consistently meeting HQS requirements.

2. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timely Initial HQS Inspection

DHCD will inspect the unit, determine whether the unit satisfies HQS, and notify the family and owner of the results of the inspection within 15 days after receiving a request for Approval of Tenancy. The same 15-day clock timeframe is non-applicable during any period when the unit is not available for inspection.

DHCD will include the date the unit is available for inspection on the RFTA form. This date will determine whether DHCD will meet the 15-day inspection requirement or whether this requirement will be suspended because the unit would not be available during that time period. For file audit purposes, DHCD will note in each tenant file, the date on which the unit first became available for inspection according to information obtained from the RFTA.

The initial inspection will be conducted to:

- Determine if the unit and property meet the HQS as defined in this Administrative Plan.
- Document the current condition of the unit to be used as a comparison for future inspections.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial HQS inspection, the family and owner (or the owner's designated agent) will be advised to notify DHCD once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as **Fail** or **Inconclusive**. At the Inspector's discretion, depending on the amount and complexity of the work to be done, additional time for repairs may be granted. The Inspector will promptly advise DHCD Section 8 Administrator of the reason and time frame for granting the additional time.

If the time period given by the Inspector to correct the repairs has elapsed, the family must select another unit if their voucher has not expired.

3. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

DHCD's annual HQS inspection will be conducted annually, DHCD will be conducting a pilot on biennial inspections for units that have passed two consecutive inspections. DHCD must conduct an inspection within 365 days of the last annual inspection date or within 2 years for units selected as a part of the risk-based pilot in order to meet SEMAP requirements. Special inspections may be scheduled between anniversary dates. The following guidelines have been established in regard to the HQS inspections:

- The landlord must correct any HQS deficiencies that cause a unit to fail, unless it is a fail for which the tenant is responsible.
- The family must allow DHCD to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]
- Inspections must be conducted on business days only.
- Reasonable hours to conduct an inspection are between the hours of 8:00 a.m. and 5:00 p.m.

3.1 Annual Inspection

The family and owner are notified of the date and time of the inspection appointment by mail (preferred method) or phone. Notification should be made at least two days prior to the scheduled inspection date. If the family is unable to be present, they must reschedule the appointment within the required 15-day period.

If the family representative does not contact DHCD to reschedule the inspection, or if the family misses two inspection appointments, DHCD will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in this Administrative Plan. The family will be allowed to miss one appointment without violating a family obligation.

3.2 Biennial Inspection Pilot

DHCD will be conducting a Biennial Inspection Pilot for units that have passed two consecutive inspections. DHCD may collect self-certification from owner/agents and tenants as a record of the units meeting inspection standards within 10 days of the date of the notice of self-certification. An annual inspection will be scheduled for units where the previous inspection was completed through the biennial process. Random Quality Control Inspections will be performed on units selected as a part of the biennial inspection pilot. All other units will be inspected at least annually, DHCD reserves the right modify the inspection schedule for each unit.

3.3 Re-inspection

The family and owner are provided a notice of the inspection appointment by mail. If the family or the family's representative is not at home for the re-inspection appointment, a letter will be sent and another appointment is automatically scheduled. The appointment letter will contain a warning of abatement (in the case of owner responsibility.)

The family is also notified that it is a family obligation to allow DHCD to inspect the unit. If the family is responsible for a breach of any of the HQS requirements, they will be advised of their responsibility to correct the breached items**.**

3.4 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 must be made within 30 days.

For major repairs, DHCD Program Administrator may approve an extension beyond the 30-day limit. When an extension is granted, the Inspector will advise the owner and tenant in writing. The Inspector will provide DHCD Program Administrator and the Housing Specialist with a copy of the written extension.

3.5 Rent Increases

DHCD may review inspection history before approving a rent increase. An owners rent increase may not be approved if the unit is in a failed or inconclusive condition. The Director, or designee, has discretionary authority to determine if the rent increase will be denied.

4. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies DHCD that the unit does not meet Housing Quality Standards, DHCD will conduct a special/complaint inspection.

The inspector will inspect only the items that were reported. However, if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the owner will be required to make necessary repairs.

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

5. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)] (Revised 01/2002)

Quality Control Inspection Reviews will be performed by the DHCD's HQS Inspector on the number of units required by SEMAP. A DHCD designated staff person, other than the Inspector, who is familiar with HQS, will conduct the quality control review of units administered under the DHCD's direct program operation. The number of units inspected will be determined based on the sampling required by SEMAP, as noted below:

Minimum Number of Units (per office) to be Inspected

- 50 or less — 5
- 51 – 600 — 5, plus 1 for each increment of 50 (or part of 50) over 50
- 601 – 2000 — 16, plus 1 for each increment of 100 (or part of 100)
- Over 2000 — 30, plus 1 for each increment of 200 (or part of 200) over 2000

The purpose of quality control inspections is to determine 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 will include units with completed inspections within the prior three months, a cross-section of neighborhoods, and a cross-section of inspectors.

On the day of the quality control inspection review, the results of each unit inspection will be given to DHCD/PHA staff. The staff will immediately notify the owner/landlord of any failed inspection items and will allow adequate time for the repairs to be completed. DHCD/PHA must conduct a follow-up inspection within 30 days of the date of the initial inspection. Should the unit continue to fail inspection, DHCD/PHA will take immediate action to abate the housing assistance payments to the owner/landlord or terminate the HAP contract.

A written response will be prepared by the program office and sent to the Program Administrator for DHCD. The response will outline the corrective actions taken by each owner/landlord of each unit that failed the initial quality control inspection and the date it passed the re-inspection. In addition, if rents are abated as a result of the continual fail items, those items will be addressed in DHCD response.

DHCD may also conduct its own Quality Control Review to determine if the agency inspector is meeting its own performance standards.

6. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

DHCD adheres to HUD HQS acceptability criteria, as stated in program regulations, with the following additional criteria:

- Window Screens (April 1 to October 31): Window screens must be present and in good condition.
- Door Screens (April 1 to October 31): All screen doors must be present and in good condition.

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. DHCD will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

7. EMERGENCY REPAIR ITEMS [24 CFR 982.401(a)]

The following items are considered emergency repairs and must be corrected by the responsible person (owner or tenant) within 24 hours of notice from the Inspector:

- Lack of security for the unit.
- Waterlogged ceiling in imminent danger of falling.
- Major plumbing leaks or flooding.
- Natural gas leak or fumes.
- Electrical problem which could result in shock or fire.
- No heat when outside temperature is below 32 degrees Fahrenheit and temperature inside unit is below 60 degrees Fahrenheit.
- Utilities not in service.
- No running hot water.

- Broken glass where someone could be injured.
- Obstacle that prevents tenant's entrance or exit.
- Lack of functioning toilet**.**

DHCD may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to complete the repair within the 24-hour period.

In those cases, where there is leaking gas, the 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 DHCD.

If the emergency repair items are not corrected in the time period required by DHCD, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will subsequently be terminated.

If the emergency repair items are not corrected in the time period required by DHCD, and it is an HQS breach that is a family obligation, DHCD will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by DHCD as an emergency (24-hour) fail item. If the smoke detector is not operating properly DHCD will contact the owner by phone and request the owner repair the smoke detector within 24 hours. DHCD will re-inspect the unit the following day.

If DHCD 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 DHCD will re-inspect the unit the following day.

DHCD will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. The 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.

8. 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) and fails to do so in the time period specified by DHCD, the assistance payment to the owner will be abated.

8.1 Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 days, depending on the nature of the repairs needed.

DHCD will inspect abated units within five (5) days of the owner's notification that the work has been completed. DHCD will advise the owner and the tenant of the date and time the reinspection will take place.

If the owner makes repairs during the abatement period and the owner reports the repairs are completed, 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 DHCD's portion of rent that is abated.

Notwithstanding the above, on a case-by-case basis, and when in the interest of the program, the Director for the Rental Service Programs, or designee, has discretionary authority to determine and implement the effective abatement end date. Documents delineating and supporting the rationale for such action should be maintained.

8.2 Extensions for other than Emergency Repair Items:

DHCD will grant an extension in lieu of abatement if the owner makes a good faith effort to make the repairs in the following cases:

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services. The owner must provide DHCD with documentation of the reason(s) for delay.
- The repairs are expensive and the owner needs time to obtain the funds.
- 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 additional time may be granted for repairs delayed due to climate conditions. If the repairs are not completed by the end of the extension period, DHCD will initiate abatement/termination of assistance procedures. 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 will be rescinded by DHCD if the tenant chooses to remain in the unit**.** No more than one Housing Quality Standards inspection will be conducted after the termination notice is issued.

9. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d) (14)]

Certain HQS deficiencies are considered the responsibility of the family. The following examples include:

- Tenant-paid utilities not in service,
- Failure to provide or maintain family-supplied appliances, and
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. (Normal wear and tear is defined as items that could be charged against the tenant's security deposit under state law or court practice.)

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's file will be noted.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. DHCD may terminate the family's assistance on that same basis.

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

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, DHCD will require the family make any repairs or corrections within 24 hours for emergencies and 30 days for non-emergencies. If the repairs or corrections are not made within this time period, DHCD will terminate assistance to the family, after providing an opportunity for an informal hearing. The owner's rent will not be abated for items that are the family's responsibility.

The Department may approve an extension requested by the family**.** When an extension is granted, the Inspector will advise the owner and tenant in writing and provide the Program Administrator with a copy of the approved extension.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.505, 982.503, 982.504, 982.505]]

INTRODUCTION

DHCD will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is DHCD's responsibility to ensure that the rents charged by owners in their jurisdiction 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 procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

1. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The Rent to Owner is limited by rent reasonableness. DHCD must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The Rent to Owner is also limited by 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, the family share may not exceed 40% of the family's monthly adjusted income if the gross rent exceeds the applicable Payment Standard.

The Rent to Owner may not be increased during the initial lease term.

2. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, DHCD 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 or manually to the HAP Register for the following month. Checks are disbursed by DHCD directly to the owner each month. Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been placed on the check.

2.1 Excess Payments

The total rent paid by the tenant plus DHCD housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to DHCD. Owners who do not return excess payments will be subject to penalties, as outlined in Chapter 18 of this Administrative Plan.

2.2 Late Payments to Owners

In keeping with generally accepted practices in the local housing market in Maryland, DHCD will make housing assistance payments to the owner promptly and in accordance with the HAP contract.

After the initial housing assistance payment, DHCD will pay a late fee to the owner for housing assistance payments that are not received by the owner by the tenth of the month, if requested by the owner. Proof of payment received by owner or the owner's agent will be the date the payment was mailed by DHCD.

If an owner makes a request for a late fee, all of the following circumstances must be met:

- Such penalties are in accordance with the generally accepted local practices and law, as applicable in DHCD local market governing penalties for late payment of rent by a tenant.
- It is the owner's practice to charge such penalties for assisted and unassisted tenants.
- The owner also charges such late fees against the tenant for late payment of the family rent to the owner.

DHCD will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond DHCD's control, such as a delay in the receipt of program funds from HUD. DHCD will use administrative fee income or the administrative fee reserve as its only source for late payment penalties for units it directly administers. DHCD will not use any housing assistance payment funds for the payment of late fee penalties to the owner.

3. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

DHCD 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.

DHCD will not approve a lease until it determines that the initial rent to owner is a reasonable rent. DHCD must re-determine the reasonable rent before any increase to the owner. DHCD must also re-determine rent reasonableness if there is a five percent decrease in the fair market rent (FMR) in effect 60 days before the contract anniversary date (for the unit size rented by the family) as compared with the FMR in effect one year prior to the anniversary.

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

The owner will be advised that by accepting each monthly housing assistance payment he or she will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units on the premises.

If requested, the owner must give DHCD information on rents charged for other units on the premises or elsewhere. DHCD will request information on the owner's units located elsewhere if needed for a rent reasonableness comparison or if DHCD has cause to demonstrate that the owner has a tendency to charge higher rents to program participants.

Due to the large geographical area of the PHA, DHCD market areas for rent reasonableness may include zip codes, subdivisions, census tracts, and neighborhoods within DHCD's jurisdiction. DHCD will document which market area type is used to determine rent reasonableness. In all cases, the subject units within a defined housing market area will always be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (such as bathrooms, dishwasher, air conditioning)
- Housing Services
- Age of unit
- Unit Type

- Maintenance
- Utilities

Rent Reasonableness Methodology

DHCD utilizes a rent reasonableness system that includes and defines the HUD factors listed above. Information is gathered on rental units within the market area. DHCD maintains an automated database, notebook or other system which includes data on unassisted units in making rent reasonableness determinations. The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources. The data is updated on an ongoing-basis and is purged after 12 months.

4. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations and at the PHA's discretion, DHCD voucher payment standard amount is between 90% and 110% of HUD's published fair market rent. These percentages are considered to be within the basic range. The PHA reviews the appropriateness of DHCD Payment Standard annually after the Fair Market Rent information is published. HUD must approve any exception payment standard beyond the basic range set by DHCD.

The PHA will establish a single voucher payment standard amount for each FMR area in DHCD 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 DHCD jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, provided the payment standard is within the 90-110% of FMR range.

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

5. 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 DHCD will not raise Payment Standards solely to make high-end units available to voucher holders. DHCD may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

5.1 Assisted Families' Rent Burdens

DHCD will review its voucher payment standard amounts annually to determine the success rate of Voucher holders and whether more than 40% of families in a particular unit size are paying more than 30% of their annual adjusted income for rent. DHCD will request each office to submit documentation for the review.

If it is determined that particular unit sizes in DHCD's jurisdiction have payment standard amounts that are creating rent burdens for families, DHCD will modify local payment standards for those particular unit sizes.

The PHA will increase DHCD payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in DHCD's jurisdiction are paying.

The Department will establish a separate voucher payment standard, within the basic range, for designated areas in DHCD's jurisdiction. A separate voucher payment standard may be established if it is determined that a higher payment standard is needed to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

The PHA will review the average percent of income that families on the program are paying for rent. If more than 40% of the families are paying more than 30% of the monthly adjusted-income for a particular unit size, the PHA will determine the reasons. The families may be renting units larger than their voucher size or they may be renting units that exceed HUD's HQS, or any additional standards of the PHA.

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 DHCD payment standard. If these are not the primary factors for families paying higher rents, the PHA will increase the payment standard.

5.2 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% of the FMR without authorization from HUD.

5.3 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 by DHCD under a higher Payment Standard with the number assisted under current Payment Standards.

5.4 File Documentation

The PHA will retain any statistical analysis for at least three fiscal years of DHCD documentation to justify whether or not the Payment Standard was changed.

6. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, DHCD must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation 24 CFR 982.503. Upon receipt of documentation from DHCD, the PHA will request HUD approval to establish a payment standard that is lower or higher than the basic range.

7. ANNUAL RENT ADJUSTMENTS

After the initial term of the lease, an owner may request an increase in the approved rent once per year. The owner is required to notify DHCD, in writing, at least 60 calendar days before the proposed effective date of the rent increase.

For all requested annual adjustments, DHCD will perform a rent reasonableness analysis using the same methodology as for approving initial rents. The adjusted rent to the owner will equal the lesser of: The reasonable rent as determined by DHCD; or the amount requested by the owner. DHCD will notify both the owner and the participant in writing when a rent increase request is approved.

Chapter 12

RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, DHCD will reexamine the income and household composition of all families annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. HUD requires that families report all changes in household composition.

This Chapter defines the policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families and the standards for timely reporting.

1. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are three activities DHCD must conduct on an annual basis. These activities are:

- Recertification of Income and Family Composition
- Housing Quality Standards Inspection
- Rent to Owner Adjustments

DHCD produces a monthly listing of units under contract to ensure that timely reviews of Rent to Owner, housing quality, and any factors related to Total Tenant Payment/Family Share are made. Requests for rent adjustments and other monetary changes will be submitted to DHCD.

2. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually. Income limits will not be used as a test for continued eligibility at recertification.

2.1 Moves Between Reexaminations

When families move to another dwelling unit, an annual recertification will be scheduled, unless a recertification has occurred in the last 120 days and the anniversary date will be changed.

2.2 Reexamination Notice to the Family

DHCD will maintain a reexamination tracking system to notify families by mail of the date and time for their interview. This notice will be sent at least 90 to 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, DHCD will provide the notice in an accessible format. DHCD will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification of the need due to the disability.

DHCD may use any of the following procedures for conducting annual recertifications:

- Schedule the date and time of appointment and mail a notification to the family.
- Permit the family to schedule the date and time of appointment by telephone or in writing.
- Permit the family to come in anytime at their convenience during specific time periods.

2.3 Completion of Annual Recertification

DHCD will have all recertifications for families completed before the anniversary date. This requirement includes notifying the family of any changes in the family's rent at least 30 days before the scheduled date of the rent change.

2.4 Persons with Disabilities

Persons with disabilities who are unable to come to DHCD's office will be granted an accommodation by conducting the interview at the person's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.

2.5 Collection of Information [24 CFR 982.516(f)]

DHCD will require the family to complete a Personal Declaration Form prior to all recertification interviews for the collection of the required information.

2.6 Requirements to Attend

All adult household members will be required to attend the recertification interview. If the head of household or any other adult household members are unable to attend the interview, the appointment will be rescheduled by DHCD.

2.7 Failure to Respond to Notification to Recertify

DHCD schedules date and time of all appointments for the recertification interview. The written notification must state that all adult members are required to attend the interview. The family may call to request another appointment.

- If the family does not appear for the scheduled recertification interview, and has not rescheduled or made prior arrangements with DHCD**, DHCD** will reschedule a second appointment.
  - If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, DHCD will not schedule a third appointment. DHCD will then send the family a notice of termination and offer them an informal hearing.
- If DHCD permits the family to schedule their appointment, the written notification must state that all adult members are required to attend the interview. If the family is unable to keep the scheduled appointment with DHCD, the family may call to request another appointment.
  - If the family does not appear for the scheduled recertification interview, and has not rescheduled or made prior arrangements with DHCD**,** DHCD will reschedule a second appointment.
  - If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, DHCD will not schedule a third appointment. DHCD will then send the family a notice of termination and offer them an informal hearing.
- If DHCD permits families to come in anytime at their convenience during specific

time periods, the written notification must state that all adult members are required to attend the interview.

- If the family does not appear during the specified time period, and has not rescheduled or made prior arrangements with DHCD**,** DHCD will reschedule a second appointment.
- If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, DHCD will not schedule a third appointment. DHCD will then send the family a notice of termination and offer them an informal hearing.

DHCD Program Administrator may make exceptions to these policies if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested, as a reasonable accommodation for a person with a disability.

2.8 Documents Required from the Family

In the notification letter to the family, DHCD will include instructions for the family to bring the following information:

1. Documentation of all assets
2. Documentation of any deductions and allowances
3. Personal Declaration Form completed by the head of household
4. Documentation of income sources

2.9 Verification of Information

DHCD will follow the verification procedures and guidelines described in this Administrative Plan. Verifications for reexaminations must be less than **120** days old.

2.10 Tenant Rent Increase

If tenant rent increases, a thirty-day notice is mailed to the family prior to the scheduled effective date of the annual recertification. If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty-day notice.

If there has been a misrepresentation or an 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.

2.11 Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, the rent decrease will be effective on the first day of the month following completion of the reexamination processing by DHCD.

3. REPORTING INTERIM CHANGES [24 CFR 982.516]

3.1 Changes in Family Composition

Program participants must report all changes in household composition, in writing, within five (5) calendar days of when the change occurs. Any information, document or signature needed from the family that is necessary to verify the change must be provided to DHCD within 14 calendar days of the change between annual reexaminations. The family does not have to come to DHCD office to report changes. Family composition changes include additions due to birth, adoption and court-awarded custody. The family must obtain DHCD approval prior to all other additions to the household.

The PHA will approve additional family members in the following cases:

- The birth, adoption or court awarded custody (includes all current members of the household as long as they live with the household member percent of the time or more)
- The addition of a spouse or domestic partner
- The addition of an elderly person or person with a disability who is a parent or grandparent of the head of household, spouse or domestic partner
- Dependents that are subject a court, joint custody agreement (if they live with the participating family 50 percent or more of the time)

The PHA may also approve a live in aide as a reasonable accommodation or a foster child with the appropriate documentation. If a new family member is added, family income must include any income of the new family member. DHCD will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

3.2 HOH is deceased and the remaining household members are minors.

When the HOH dies during tenancy and the remaining household members are minors, the PHA may allow a temporary adult guardian to reside in the unit until a court-appointed guardian is established up to 180 days. In accordance with its screening policies, the PHA may add the new guardian as the new HOH. DHCD will work with the local Department of Social Services to ensure that the best interests of the children are addressed.
The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified, as required.

3.3 Income and Asset Changes

Program participants must report all changes in household income and assets, in writing, within 14 calendar days of when the change occurs. Any information, document or signature needed from the family that is necessary to verify the change must be provided within 14 days of the change. The family may not have to come to DHCD to report changes, it may be done through the mail.

3.3 Interim Reexamination Policy

DHCD will conduct interim reexaminations when families have an increase in gross income of $100.00 per week ($5,200 annually).

3.4 Decreases in Income

Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. DHCD must calculate the change if a decrease in income is reported, unless the decrease is the result of the family's failure to comply with Welfare Program requirements.

3.5 DHCD Errors

If DHCD 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. 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 had it been calculated correctly.

4. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification. If there is a change from a benefit income to employment income, DHCD will defer the family's rent increase

for six months to encourage the family's move to self -sufficiency. This incentive will only be provided once to any family member. This incentive does not apply to persons who work seasonally.

DHCD may conduct the interim recertification by mail for:

- Changes that will not result in a change in tenant rent or voucher size.
- Changes in income that are normal for the family, such as seasonal employment.
- A reasonable accommodation when requested.

Any changes reported by participants other than those listed in this section will be noted in the file by DHCD but will not be processed between scheduled annual certifications.

5. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

DHCD will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of fraud, failure to participate in an economic self-sufficiency program, or noncompliance with a work activity requirement.

DHCD will reduce the rent if the welfare assistance reduction is a result of the expiration of a lifetime limit on receiving benefits or a situation where the family has complied with welfare program requirements but cannot or has not obtained employment.

DHCD will notify affected families that they have the right to an informal hearing regarding these requirements.

Cooperation Agreements

DHCD will request the local welfare agency to execute a Cooperation Agreement or Memorandum of Understanding between DHCD and the local welfare agency to ensure timely and accurate verification of noncompliance.

Program Administrators are encouraged to take a proactive approach to culminating an effective working relationship between DHCD and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to assisted families.

Program Administrators are encouraged to work with their local welfare agency to come to a mutual agreement to exchange information regarding any economic self-sufficiency or other appropriate programs or services that would benefit assisted families.

6. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD to report the results of recertifications.

The Notice of Rent Change is mailed to the owner and the tenant**.** Signatures are not required by DHCD. The Notice of Rent Change will also include information regarding an informal hearing if the family disagrees with the rent adjustment.

7. TIMELY REPORTING OF CHANGES IN INCOME/ASSETS [24 CFR 982.516(c)]

Families are required to report all interim changes to DHCD within five (5) calendar days of when the change occurs. Any information, document or signature needed from the family that is necessary to verify the change must be provided within 14 days of the change.

An exception will be made for Temporary Assistance for Needy Families (TANF) recipients who obtain employment. In such cases, families will have to report the change within 30 days of receipt of the TANF Notice of Action that documents the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, the change will be considered as untimely reporting by the family.

7.1 Procedures when the Change is reported by the Family in a Timely Manner

DHCD will notify the family and the owner of any change in the Housing Assistance Payment. The change will not be made until the third party verification is received.

> Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice. If less than thirty days are remaining before the first of the following month, the tenant rent increase will be effective on the first of the month following the thirty-day notice.
>
> 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 verifications have been obtained, even if a retroactive adjustment results.

7.2 Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement or make a lump sum payment.

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

7.3 Procedures when the Change is Not Processed by DHCD in a Timely Manner

Processed in a timely manner means that the change goes into effect on the date it should, based on when the family reports the change. If DHCD is unable to implement the change by such date, then the change is considered to not be processed by DHCD in a timely manner.

If the change resulted in an increase, the increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by DHCD.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactive to the date it should have been effective, and the family will be credited for the amount.

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

The Non-Citizens Rule was implemented prior to November 29, 1996. Mixed families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

- The head of household or spouse is a U.S. citizen or has eligible immigrant status.
- All members of the family other than the head of household, the spouse, parents of the head of household or the spouse, and children of the head of household or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

9. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

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

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under Portability procedures. The regulations also allow the PHA the discretion to develop policies for DHCD that define any limitations or restrictions on moves.

This chapter defines the procedures for moves, both within and outside of, DHCD's jurisdiction, and the policies for restriction and limitations on moves.

1. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

- The assisted lease for the old unit has terminated because DHCD 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, 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 provided the family has a right to terminate the lease.
- The family or a member of the family is or has been the victim of domestic violence, dating violence, stalking, or sexual assault and the move is needed to protect the health or safety of the family or family member. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, stalking, or sexual assault and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the dwelling unit.

2. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

The following restrictions apply regarding moves by program assisted families:

- Families will not be permitted to move during the initial year of occupancy.
- DHCD will deny permission to move if there is insufficient funding for continued assistance.
- DHCD will deny permission to move with continued assistance if:
  - The family has violated a Family Obligation.
  - If the family has moved out of the assisted unit in violation of the lease.
  - The family owes DHCD money.

DHCD may approve an exception to these restrictions. DHCD Section 8 Administrator has the authority to grant an exception if:

- The owner and tenant mutually agree to terminate the lease.
- The family has no control over an emergency, such as owner opt-out, medical/health reasons.

  The family's move relates to an opportunity for education, job training or employment.

3. PROCEDURE FOR MOVES [24 CFR 982.314]

3.1 Issuance of Voucher

Subject to the restrictions on moves, DHCD will issue the voucher to move after conducting a recertification if the family has not been recertified within the last 120 days. The family may remain in the current unit if they do not locate a new unit and the owner approves.

If the family moves with assistance, the annual recertification date will be changed to coincide with the effective date of the new lease-up/HAP contract date.

3.2 Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and DHCD proper written notice of any intent to move. The family must give the owner a written notice, with a copy to DHCD, within the required number of days of intent to vacate as specified in the lease.

3.3 Time of Contract Change

A move within the same building, project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease at mid-month. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

4. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into DHCD's jurisdiction within the United States and its territories. PHAs must explain the advantages of living in areas with low concentrations of low income families be provided to all families.

5. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations, a participant family has the right to receive tenant-based voucher assistance to lease a unit anywhere in the United States, outside DHCD’s jurisdiction, or within the jurisdiction of another PHA with a tenant-based program. When a family requests to move outside of DHCD'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 initial PHA provides the family with the contact information for the receiving PHAs and the family chooses the receiving PHA. The family may request the initial PHA to choose the receiving PHA if that is the family’s preference.

At the time the initial PHA approves a portability request, it must advise the family how to contact and request assistance from the receiving PHA. Within 24 hours, the initial PHA must also notify the receiving PHA to expect the family.

Restrictions on Portability

Applicants

If neither the head of household nor spouse had a domicile or legal residence in Maryland at the date of the initial application for assistance, the family may **not** be permitted to exercise portability upon initial issuance of a voucher with the exception of a reasonable accommodation.

Upon initial issuance of a voucher the family must be income eligible under the receiving PHA income limits during the initial 12-month period after admission to the program.

Participants

After a family has leased-up in the jurisdiction of the initial housing agency, he or she cannot exercise portability during the first year of assisted occupancy, except for the following reasons:

- The owner and tenant mutually agree to terminate the lease.
- The family has no control over an emergency such as owner opt-out or medical/health reasons.
- The family's move relates to an opportunity for education, job training or employment.

The initial PHA must agree to allow the move.

DHCD will not permit families to exercise portability if the family is in violation of a family obligation; if they have moved out of the assisted unit in violation of the lease; or if they owe money to DHCD or another PHA.

6. PHA ABSORPTION FOR INCOMING PORTABILITY [24 CFR 982.354, 982.355]

The receiving PHA may absorb incoming portable families provided that there is funding available. The initial PHA will be notified in writing within seven (7) calendar days by the receiving PHA with its decision to absorb the portable voucher. All procedures of the receiving PHA will be adhered to when the portable family is absorbed under its program.

7. PHA BILLING FOR INCOMING PORTABILITY

The initial PHA must contact the receiving PHA prior to approving the family's request to move to determine if the receiving PHA will bill or absorb.

The receiving PHA must respond to the initial PHA's request in writing. If the receiving PHA notifies the initial PHA that it will absorb the voucher, it cannot reverse its decision at a later date without consent of the initial PHA.

The receiving PHA will issue a portability voucher according to its own subsidy standards. If the family has a change in family composition that would change the voucher size, the receiving PHA will use the proper voucher size based upon its own subsidy standards. The term of the voucher will coincide with that of the initial 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 receiving PHA's jurisdiction, it must contact the initial PHA to request an extension.

7.1 Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As a receiving jurisdiction, the PHA will conduct a recertification interview to verify the information provided if: information is over 120 days old, documents are missing, or there has been a change in the family's circumstances. The receiving PHA's recertification of the family will not cause a delay in the issuance of a voucher.

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

A briefing will be mandatory for all portability families.

7.2 Requests for Approval of Tenancy

When a family submits a Request for Tenancy Approval, it will be processed under the receiving PHA's policies. If a family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within seven (7) calendar days of the expiration of the voucher by the receiving PHA.

If that family leases up successfully, the receiving PHA will notify the initial PHA within 14 days.

If the receiving PHA denies assistance to the family, it will notify the initial PHA within seven (7) calendar days. The family will be offered a review or hearing.

The receiving PHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the receiving PHA's jurisdiction under continued portability.

7.3 Receiving PHA Functions

The receiving PHA will perform all program functions applicable to the tenant-based assistance program, such as:

- Conducting annual reexaminations of family income and composition.
- Conducting annual inspections of the unit.
- Completing Interim Examinations when requested or deemed necessary.

7.4 Terminations

The receiving PHA will notify the initial PHA in writing of any termination of assistance within seven (7) calendar days of the termination. If the family requests an informal hearing, the hearing will be conducted by the receiving PHA. A copy of the hearing decision will be sent to the initial PHA.

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

7.5 Required Documents

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

7.6 Billing Procedures

The receiving PHA will bill the initial PHA monthly for Housing Assistance Payments and Administrative Fees.

The initial PHA must reimburse the receiving PHA for the lesser of 80% of the initial PHA's administrative fee or 100% of the receiving PHA's administrative fee.

If administrative fees are prorated for the HCV program due to insufficient administrative fee funding, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill the initial PHA. The receiving PHA will bill 100% of the Housing Assistance Payment.

The receiving PHA will notify the initial PHA of any changes in subsidy amounts and will expect to be notified by the initial PHA of any changes in the Administrative Fee to be billed.

7.7 Special Purpose Vouchers (SPVs)

The initial PHA must submit any SPV codes for the Family Report (HUD50058). The receiving PHA must maintain such codes as long as it is billing for the ported voucher.

Initial and receiving PHAs must administer SPVs in accordance with HUD established policy in cases where HUD has established alternative program requirements of such SPVs.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311, 982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) contract is the written agreement between the owner and DHCD that defines the responsibilities of both parties.

This chapter describes the circumstances under which the contract can be terminated by DHCD and the owner, and the policies and procedures for such terminations.

1. 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 DHCD may be terminated by either party. The HAP contract may also be terminated as the result of the tenant terminating the lease. No future subsidy payments on behalf of the family will be made by DHCD to the owner after the month in which the contract is terminated. The owner must reimburse DHCD for any subsidies paid by DHCD 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. If the family meets the criteria for a move with continued assistance upon contract termination, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

2. TERMINATION BY THE FAMILY [24 CFR 982.314(c)(2)]

The HAP contract will terminate upon family termination of the lease. The family's termination of the lease must be in accordance with the terms of the lease.

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

If the owner wishes to terminate the lease, the owner is required to provide proper notice as stated in the lease. During the term of the lease, the owner may not terminate the tenancy except for grounds as 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.
- Serious or repeated violations 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.
- 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.
- Any drug-related criminal activity on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy. In addition, the lease must provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- If a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- 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 or violating a condition of probation or parole imposed under Federal or State law. Other good cause.

- During the initial term of the lease, the owner may not terminate the tenancy for other good cause unless the termination is due to something the family actually did or failed to do. (24 CFR 982.310)

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 refers to a notice to vacate, a complaint, or other initial pleading used under State or local law to commence an eviction action. DHCD requires the owner to specify the section of the lease that has been violated or the type of criminal or drug-related activity that has been committed and cite how the tenant has violated that section or activity as documentation. This documentation will be used in DHCD's decision regarding issuing the family another voucher or terminating the family's assistance. If an eviction is not due to a serious or repeated violation of the lease, and if DHCD has no other grounds for termination of assistance, DHCD will issue a new voucher so that the family can move with continued assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction and the family continues to reside in the unit, DHCD 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. Payments will cease upon the family's actual move or eviction from the unit.

If the eviction action is finalized in court, the owner must provide DHCD with documentation.

Provisions of the Violence Against Women Act (VAWA), Public Law 109-162, Section 606

VAWA provides certain protections to Housing Choice Voucher and Project-Based program participants. An incident of actual or threatened domestic violence, dating violence, stalking, or sexual assault will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance of the victim of such violence.

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

The term of the HAP contract is terminated by DHCD when the lease terminates, when DHCD terminates program assistance for the family, or when the owner has breached the HAP contract

(See Chapter 16 for owner disapproval and restriction). DHCD may also terminate the contract if:

- Unit has uncorrected HQS violations.
- The family is required to move because the unit does not meet the HQS occupancy standards due to a change in family composition.
- Funding is no longer available.

The contract will terminate automatically if it has been 180 days or more since the last housing assistance payment was made to the owner.

4.1 Termination Due to HQS Occupancy Standards

DHCD will provide the owner and family written notice of termination due to violation of HQS occupancy standards of the HAP contract. The HAP contract will then terminate at the end of the calendar month that follows the calendar month in which DHCD gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 982.552, 982.553]

INTRODUCTION

DHCD may deny or terminate assistance for a family due to the family's action or failure to act. DHCD will provide families with a written description of the Family Obligations under the program, the grounds under which DHCD can deny or terminate assistance, and the informal hearing procedures.

This chapter describes when DHCD is permitted to or required to deny or terminate assistance, and the policies for the denial of assistance for an applicant or termination of assistance under an existing HAP contract.

1. DENIAL/TERMINATION IN GENERAL [24 CFR 982.552, 982.553]

1.1 Form of Denial/Termination

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

- Denying placement on DHCD waiting list.
- Denying or withdrawing of a voucher.
- Refusing to enter into a HAP contract or approve a unit.
- Refusing to process or provide assistance under portability procedures.

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

- Refusing to enter into a new HAP contract or approve a new unit.
- Terminating housing assistance payments under a current HAP contract.
- Refusing to process or provide assistance under portability procedures.
- Terminating any further participation in the program.

1.2 Mandatory Denial and Termination of Assistance [24 CFR 982.552(b)]

DHCD must deny assistance to applicants, and terminate assistance for participants for any of the following reasons:

- Any adult member of the family fails to sign or submit required consent forms for obtaining information on family status, etc.
- The family does not meet eligibility criteria as described in Chapter 2 of this Administrative Plan.
- Any family member has been convicted of manufacturing or producing methamphetamine in violation of any Federal or State law on the premises of an assisted housing project, including the building or complex on which the unit is located and the associated common areas and grounds.
- If the family is evicted from housing assisted under the program for a serious violation of the lease.
- Any family member fails to establish citizenship or eligible immigration status within the prescribed timeframes and extensions. (See Chapter 2 and Chapter 19 of this Administrative Plan.)
- Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- Any family member is subject to a lifetime registration requirement under a national or state sex offender registration program.

1.3 Additional Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

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

- The family violates any family obligation under the program as listed in 24 CFR 982.551.
- Any member of the family has been evicted from federally-assisted housing in the last five years.

- A PHA has terminated assistance under the program for any member of the family.
- Any member of the family has committed 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 DHCD or 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 DHCD to pay amounts owed to DHCD, or amounts paid to an owner by DHCD. DHCD at its discretion may offer the family the opportunity to enter into a repayment agreement. DHCD will prescribe the terms of the agreement. (See Chapter 18.)
- The family participating in a Family Self-Sufficiency (FSS) program fails to comply, without good cause, with the FSS contract of participation.
- The family fails to fulfill its obligation under the Section 8 Welfare-to-Work voucher program.
- The family is under contract and 180 days have elapsed since DHCD's last housing assistance payment was made.
- The family violates DHCD's policies on absences from the unit.
- Any member of family engaged drug-related criminal activity, violent criminal activity, or drug or alcohol abuse, as discussed in Section 2.
- The family has engaged in or threatened abusive or violent behavior toward DHCD personnel or subcontractors.
  - Abusive or violent behavior towards DHCD 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 be cause for termination.

If denial or termination is based upon behavior resulting from a disability, DHCD will delay the denial or termination to consider imposition of a reasonable accommodation to the known physical or mental limitations of the applicant or participant, as provided in Chapter 1.

2. DENIAL OR TERMINATION FOR CRIMINAL ACTIVITY AND SUBSTANCE ABUSE [24 CFR 982.553]

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 to terrorize neighbors. It is the intention of Maryland Department of Housing and Community Development to:

- Help create and maintain a safe and drug-free community.
- Keep 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 and can learn to be productive citizens.
- Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

2.1 Definitions

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.

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.

2.2 <u>Denial of Assistance</u> for Criminal Activity or Substance Abuse

2.2.1 Drug- Related Criminal Activity

2.2.1.1 Mandatory Denial of Assistance:

(a) **Past Eviction for Drug-Related Criminal Activity.** Persons evicted from public housing, Indian Housing, Section 8, Section 23 or any other program under the Housing Act of 1937 because of drug-related criminal activity are ineligible for admission to the Section 8 program for a three-year period beginning on the date of such eviction.

However, DHCD may admit the family if it determines:

(i) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or

(ii) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

(b) **Manufacture or Production of Methamphetamine.** Admission will be denied if any family member has been convicted of manufacturing or producing methamphetamine in violation of any Federal or State law on the premises of an assisted housing project, including the building or complex on which the unit is located and the associated common areas and grounds.

2.2.1.2 Permissive Denial of Assistance: Engaging in Drug-Related Criminal Activity. DHCD may prohibit admission to the program if it determines that any member of the Family is currently engaged in drug-related criminal activity, or has engaged in drug related criminal activity, a reasonable time before admission.

If DHCD previously denied admission to an applicant because a member of the Family engaged in criminal activity, DHCD may reconsider the applicant if it has sufficient evidence that the members of the Family are not currently engaged in, and have not engaged in, such drug-related criminal activity during a reasonable period before the admission decision.

2.2.2 Other Criminal Activity

2.2.2.1 Mandatory Denial of Assistance—Lifetime Sex Offender Registration. DHCD will deny admission if any family member is subject to a lifetime registration requirement under a national or state sex offender registration program.

2.2.2.2 Permissive Denial of Assistance. DHCD may prohibit admission of a household to the program if it determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission:

(a) Violent Criminal Activity;

(b) Any criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

(c) Any criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of DHCD; or

(d) Any criminal activity which has resulted in a household member being subject to registration under a national or state sex offender registration program for any period of time.

2.2.3 Substance Abuse

DHCD will deny admission to applicants if DHCD (a) determines that any household member is currently engaging in illegal use of a controlled substance, or (b) has reasonable cause to believe that a household member's illegal drug use, or a pattern of illegal drug use, or pattern of alcohol abuse may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

2.2.4 Copy of Criminal Record

If DHCD denies admission for criminal activity as shown by a criminal record, it will provide the subject of the record and the applicant with a copy of the criminal record upon which the denial is based. The family will have an opportunity to dispute the accuracy and relevance of that record during any informal review conducted in accordance with Chapter 19.

2.3 Termination of Assistance for Criminal Activity or Substance Abuse

2.3.1 Drug-Related Criminal Activity

2.3.1.1 Mandatory Termination--Manufacture or Production of Methamphetamine. DHCD will immediately terminate assistance for a family under the program if it determines that any member of the household has ever been convicted of drug-related criminal

activity for the manufacture or production of methamphetamine on the premises of federally assisted housing.

2.3.1.2 Permissive Termination—Engaging in Drug-Related Criminal Activity. DHCD may terminate assistance if it determines that any family member has violated the family's obligation to not engage in any drug-related criminal activity.

2.3.2 Other Criminal Activity

2.3.2.1 Mandatory Termination--Sex Offender Registration. DHCD will terminate assistance for a family if any household member becomes subject to a lifetime registration requirement under a State sex offender registration program.

2.3.2.2 Permissive Termination—Violent Criminal Activity. DHCD may terminate assistance for a family if it determines that any household member has engaged in violent criminal activity.

2.3.3 Substance Abuse

DHCD may terminate assistance for a family under the program if it determines that (a) any household member is currently engaged in any illegal use of a controlled substance; or (b) a pattern of illegal use of a controlled substance by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

DHCD may terminate assistance for a family under the program if it determines that any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

2.3.4 Evidence

2.3.4.1 No Arrest or Conviction Required. Except for terminations under Section 2.3.1.1, DHCD may terminate for criminal activity or substance abuse as authorized in this section if it determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted**.**

2.3.4.2 Copy of Criminal Record. If DHCD terminates assistance for criminal activity as shown by a criminal record, it will provide a copy of the criminal record to the subject of the record and to the head of household. The family will have an opportunity to dispute

the accuracy and relevance of that record at any informal hearing requested by the hearing in accordance with Chapter 19.

2.4 Screening and Administration

DHCD endeavors to screen applicants as fairly as possible. This endeavor will include screening 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.

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, religion, gender, national origin, familial status, disability, or any other legally-protected ground.

To the maximum extent possible, DHCD will involve other community and government entities in the promotion and enforcement of this policy. This policy will be posted in an accessible location in DHCD's office, with copies available upon request.

2.5 Confidentiality of Criminal Records

DHCD will ensure that any confidential criminal record received is maintained confidentially and not misused or improperly disseminated.

3. TERMINATION FOR BREACH OF FAMILY OBLIGATIONS [24 CFR 982.551]

3.1 Program assistance will be denied or terminated if the family violates any family obligations under the program. Family obligations include the following:

- The family must supply any information that the DHCD or HUD deems as 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 DHCD 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.

- The family must provide true and complete information.
- The family is responsible for any HQS breach caused by the family as described in 982.404(b).
- The family must allow DHCD to inspect the unit at reasonable times, after reasonable notice.
- The family must comply with the lease and not commit any serious or repeated violations of the lease.
- The family must simultaneously notify the owner and DHCD before the family moves out of the unit or terminates the lease.
- The family must promptly give DHCD 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 family must notify DHCD of any changes in household composition. The family must promptly inform DHCD of the birth, adoption or court-awarded guardianship custody of a child. The family must request DHCD approval to add any other family member as an occupant of the unit. If DHCD has given approval, a foster child or a live-in aide may reside in the unit. The family must promptly notify DHCD if any family member no longer resides in the unit.
- Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to the primary use of the unit as a residence of the family and the family has the owner’s approval.
- The family must not sublet or assign the lease.
- The family must supply any information or certification requested by DHCD to verify that the family is living in the unit, or relating to family absence from the unit, including any requested information or certification on the purposes of family absences. The family must cooperate with DHCD for this purpose. The family must promptly notify DHCD of absence from the unit.
- The family must not own or have any interest in the unit, with the exception of ownership in a cooperative.

- The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
- The members of the family must not engage in drug-related criminal activity or violent criminal activity.
- 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 federal, State or local housing assistance program, as determined by HUD or in accordance with HUD requirements.

3.2 Housing Authority Discretion for Failure to Comply with Family Obligations [24 CFR 982.552(c)]

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

DHCD may also review the family's 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.

DHCD 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. DHCD may permit the other members of a family to continue in the program.

If the family includes a person with disabilities, DHCD decision regarding such action is subject to consideration of reasonable accommodation in accordance with part 8 of the CFR regulations.

3.3 Enforcing Certain Family Obligations

HQS Breach -DHCD program Administrator will determine if a 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 DHCD Section 8 Administrator.

Lease Violations -- The following criteria will be used to determine if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through successful 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 DHCD determines that the cause is a serious or repeated violation of the lease based on available documented evidence.
- If repeated or serious violations of the lease include but are not limited to non-payment of rent, non-payment of tenant-furnished utilities, or drug-related or violent criminal activity.

Notification of Eviction -- If the family requests assistance to move and they did not notify DHCD of an eviction within seven (7) calendar days of receiving the Notice of Lease Termination, the move will be denied.

3.4 Proposed Additions to the Family -- DHCD will deny a family's request to add additional family members who are:

- Persons who have previously violated a family obligation listed in 24CFR 982.51 of the HUD regulations.
- Persons who have been evicted from federally assisted housing for a serious violation of the lease other than drug related or violent criminal activity for five (5) years prior to the final eligibility determination. Federally assisted housing includes: Public Housing, Section 8 tenant based and project based, 221 (d) (3), BMIR, 236, 202 and 811 projects.
- 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 DHCD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- Persons who have 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.Persons who breached an agreement with a PHA to pay amounts

owed to a PHA, or amounts paid to an owner by a PHA. DHCD at its discretion may offer the person the opportunity to enter into a repayment agreement. DHCD will prescribe the terms of the agreement.

- Persons who engaged in or threatened abusive or violent behavior toward DHCD personnel or subcontractors.
- Persons convicted for drug-related criminal activity, or violent criminal activity.
- Persons who would not otherwise be admitted as provided in Sections 1.2, 1.3, and 2.2.
- Other eligibility criteria for admission, as discussed in Chapter 2 of this Administrative Plan.

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

- The date the family member moved out.
- The new address, if known, of the family member.
- A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-making Activity in Unit -- If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation. If DHCD 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. In addition, if DHCD determines the business is not legal, it will be considered a program violation.

Interest in Unit -- The owner may not reside in the assisted unit regardless of whether he or she is a member of the assisted family.

Fraud and Program Abuse -- In each case, DHCD will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

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

4.1 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. DHCD must offer the family an opportunity for a hearing (See Chapter 19 of this Administrative Plan). Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

4.2 False or Incomplete Information

When DHCD 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 citizenship, DHCD will give him or her an opportunity to provide a new declaration as an eligible immigrant. The other option is for him or her to elect not to contend his or her status. DHCD will then verify eligible status, deny, terminate, or prorate assistance as applicable.

DHCD will deny or terminate assistance based on the submission of false information or misrepresentation.

4.3 Procedure for Denial or Termination

If the family, or any member, claimed eligible immigrant status and the United States Customs and Immigration Service's primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS. The family may request a hearing with DHCD either after the USCIS appeal or in lieu of the USCIS appeal. (See Chapter 19 of this Administrative Plan.)

If DHCD makes a determination of ineligibility, the family will be notified of the determination and the reasons and will be informed of the option for prorated assistance (if applicable).

5. ZERO ASSISTANCE TENANCIES

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 decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, DHCD 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.

6. OPTION NOT TO TERMINATE FOR INCORRECT INFORMATION

If the family has provided incorrect information that caused DHCD to overpay assistance, DHCD may choose not to terminate. DHCD may then offer continued assistance provided that the family executes a repayment agreement and makes payments in accordance with the agreement or reimburses DHCD in full within 14 calendar days**.**

7. MISREPRESENTATION IN COLLUSION WITH OWNER

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, DHCD may deny or terminate assistance. In making this determination, DHCD will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

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

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 Administrative 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 and Inspections.
- Recertifications.
- Appeals.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying DHCD, may be sent a Notice of Denial or Termination of Assistance.

Generally, the family will be given two opportunities before being issued a Notice of Denial or Termination of Assistance for breach of a family obligation. Once a notice of termination has been issued, the family may correct the breach within the time allotted and request a hearing.

9. NOTICE OF TERMINATION OF ASSISTANCE

In any case where DHCD decides to terminate assistance to the family, DHCD must give the family written notice which states:

- The reason(s) for the proposed termination. If applicable, a copy of the criminal record may be included with the termination notice or provided at a later date prior to any scheduled informal hearing.
- The effective date of the proposed termination.
- The family's right 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 Office of Administrative Hearings.

DHCD will simultaneously provide written notice of the HAP contract termination to the owner so that it will coincide with the Termination of Assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

The PHA requires that local offices recruit owners to participate in the voucher program. DHCD will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout their jurisdictions. The regulations define when DHCD must disallow an owner participation in the program, and they provide DHCD 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.

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

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

- HUD, DHCD, or other directly related agency has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the PHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and that such action is pending.
- 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.
- The owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. DHCD 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, DHCD may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

- The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

- The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

- The owner has engaged in drug-related criminal activity or any violent criminal activity.

- The owner has a history or practice of non-compliance with 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.

- The owner has a history or practice of renting units that fail to meet State or local housing codes.

- The owner has not paid State or local real estate taxes, fines or assessments.

- The owner has failed to comply with regulations, the mortgage or note, the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

- 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 DHCD, of owner employees, or of 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
- Engages in drug-related criminal activity or violent criminal activity.

2. 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, DHCD will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. DHCD may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner DHCD 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.

3. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract and lease.

DHCD, as a party to the HAP contract, may approve the assignment of the contract at the previous owner's request. DHCD may deny assignment for any of the reasons listed in Section A of this chapter.

DHCD will process a change of ownership only by written request of the new owner. The request must be accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed, the Employee Identification Number or Social Security number of the new owner, and a W-9 form, if required.

DHCD must receive a written request by the owner or the owner's designated agent on record with DHCD in order to change the HAP payee and/or the address to which payment is to be sent.

If the new owner does not want an assignment of the contract, DHCD will terminate the HAP contract with the previous 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

SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The PHA will not set aside any program funding for special housing types identified in this chapter.

The Department will permit the use of Manufactured Homes and Manufactured Home Space Rentals in its program as a special housing type for all program participants.

The Department will permit the use of other special housing types listed in this chapter for an applicant or participate who is 62 years of age or older, or for a person with a disability who can document that the housing is needed as a reasonable accommodation. Acceptable documentation will include written verification from one or more competent professionals familiar with the applicant or participant and the type of special housing requested as an accommodation. The written verification is a letter to DHCD describing how the special housing type requested provides the accommodation the person needs. DHCD Section 8 Administrator will review the request. A written response from DHCD stating approval or disapproval will be sent to the applicant or participant within 14 calendar days of the receipt of the original request.

A copy of DHCD's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must meet all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

1. CONGREGATE HOUSING [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit. DHCD may approve a family member or live in aide to also reside in the unit with the elderly or disabled person.

DHCD 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.

Congregate Housing Lease and HAP Contract [24 CFR 982.607 and 24 CFR 982.608]

A separate lease and HAP contract is required for each assisted participant to live in the congregate housing unit. The payment standard for the participant is the zero-bedroom payment standard as noted on DHCD's payment standard schedule. However, if there are two or more

rooms in the unit (not including kitchen or sanitary facilities), the payment standard is based on the one-bedroom payment standard amount. If there is a live-in aide in the unit, the live-in aide will be counted in determining the family unit size.

DHCD 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.

2. GROUP HOMES [24 CFR 982.610, 982.612]

An elderly person or a person with disabilities may reside in a State-approved group home. All residents of a group home must be elderly persons or persons with disabilities, with the exception of DHCD approved live-in aides. The group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

A live-in aide may reside with a person with disabilities if approved by DHCD. DHCD 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.

DHCD will not approve 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.

2.1 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.

2.2 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. For a group home the term pro-rata portion refers to 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 home. The number of persons in the assisted household equals one assisted person plus any DHCD-approved live-in Aide.

The reasonable rent for a group home is determined in accordance with section 982.503. In determining reasonable rent, DHCD 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 zero or one bedroom. Otherwise, the presence of a live-in aide will be considered 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; or the pro-rata portion of the payment standard amount on DHCD payment standard schedule for the group home unit 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

DHCD will ensure that all group home units approved for the program are in compliance with group home Housing Quality Standards as regulated under section 4 CFR 982.614.

3. SHARED HOUSING [24 CFR 982.615]

An assisted family may reside in shared housing which allows them to share a unit with another resident or residents of a unit. The unit may be a house or an apartment. Other assisted or not assisted persons under the tenant-based program may reside in a shared housing unit.

DHCD may approve a live-in aide to reside with a family in order to care for a person with a disability.

The owner of a shared housing unit may reside in the unit and may enter into a HAP contract with DHCD. However, housing assistance will not be paid on behalf of an owner. In addition, DHCD will not approve assistance for a person who is related by blood or marriage to the 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** refers to the ratio derived by dividing the number of bedrooms available for occupancy by a family by the total number of bedrooms in the unit. For example, the ratio for a family entitled to occupy three bedrooms in a five-bedroom unit 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.

Maximum Subsidy

The payment standard for shared housing is the lower of the payment standard amount on DHCD payment standard schedule for the family size or the pro-rata portion of the payment standard amount.

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

DHCD will ensure that all shared housing units approved for the program are in compliance with the shared-housing Housing Quality Standards as regulated in section 24 CFR 982.618.

4. COOPERATIVE HOUSING [24 CFR 982.619]

DHCD will approve a family living in cooperative housing if it is determined the assistance will help maintain the affordability of the cooperative unit for low-income families. DHCD will not approve assistance for a family in cooperative housing until it has determined that the cooperative has adopted requirements to maintain continued affordability for low-income families subsequent to the transfer of a member's interest in the cooperative unit.

For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative. The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. This amount includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to reserve funds. However, the carrying charge does not include down payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility allowance for furnish units. The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner.

DHCD may approve a live-in aide to reside with the family to care for a person with disabilities. If DHCD approves a live-in aide, the live-in aide will be counted when determining the family unit size.

Rent reasonableness and the housing assistance payment for a cooperative will be determined in accordance with the procedures under Chapter 11 of this Administrative Plan. Annual rent adjustments will be applied to the carrying charge and will also be determined in accordance with Chapter 11 of this Administrative Plan.

Housing Quality Standards

DHCD will ensure that all cooperative housing units approved for the program are in compliance with the Housing Quality Standards regulated under section 24 CFR 982.401.

5. MANUFACTURED HOMES [24 CFR 982.620]

DHCD will provide assistance for a family that leases a manufactured home and its space. Assistance will be provided for a family that owns the manufactured home and leases the space.

DHCD may approve a live-in aide to reside with a family to care for a person with disabilities. An approved live-in aide will be counted when determining the family unit size.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements regulated under section 24 CFR 982.401. In addition, the manufactured home must be placed on the site in a stable manner and anchored by a tie-down device that distributes and transfers the home's load to appropriate ground anchors in order to resist wind overturning and sliding.

Manufactured Home Space Rental [24 CFR 982.622]

The rent to owner for a manufactured home space will include payment for maintenance services that the owner must provide to the tenant under the lease for the space. The rent to owner does not include the cost of utilities and trash collection for the manufactured home. However, the owner may charge the family a separate fee for the cost of utilities or trash collection provided by the owner.

Reasonable Rent

DHCD will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. DHCD will consider the size and location of the space and any services and maintenance provided by the owner in determining rent reasonableness. DHCD will re-determine that the rent is reasonable on an annual basis.

By accepting each monthly housing assistance payment, the owner of the manufactured home space certifies that the rent for the space is not more than the rent charged for unassisted comparable spaces in the same manufactured home park or elsewhere. If requested, the owner must provide DHCD with information on space rentals for other manufactured homes.

Manufactured Home Space Fair Market Rent (FMR) [24 CFR 982.623]

HUD determines the FMR for manufactured home space rentals.

Voucher Program HAP

The payment standard is used to calculate the monthly housing assistance payment for a manufactured home space rental and is the payment standard for units of the same size on DHCD's payment standard schedule.

The FMR for a manufactured home space is generally 40% of the published FMR for a two-bedroom unit or, where approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110% of the FMR for manufactured home spaces.

The amount of the monthly housing assistance payment will equal the lesser of the payment standard minus the total tenant payment OR the gross rent minus the total tenant payment.

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

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

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

The PHA will establish utility allowances for manufactured home space rental in DHCD's jurisdiction, as applicable. For the first twelve months of the initial lease term only, the allowance will include a reasonable amount for utility hook-up charges payable by the family, if the family incurs the expenses due the move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

Chapter 18

OWNER OR FAMILY DEBTS TO THE PHA

[24 CFR 982.552]

INTRODUCTION

This chapter describes the PHA's policies for DHCD's recovery of monies that have been overpaid to, or on behalf of families and 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 for DHCDs to address 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 DHCD 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 party.

When families or owners owe money to DHCD, DHCD will make collection efforts. DHCD will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Repayment Agreements
- Abatements
- Reductions in HAP to owner
- Collection agencies
- Credit bureaus
- Income tax set-off programs

1. REPAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)]

A repayment agreement is an agreement between DHCD and a person who owes a debt to DHCD. 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 DHCD upon default of the agreement.

DHCD 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 DHCD.

2. DEBTS OWED FOR REPAYMENT AGREEMENTS [24 CFR 792.103, 982.552 (c)]

The Department will offer to enter into a repayment agreement if a family owes money to DHCD for claims paid to an owner:

Late Payments

A payment will be considered to be late or delinquent if the payment is not received by the close of the business day, 14 calendar days after the due date. If the family's Repayment Agreement is delinquent for two consecutive months, and the family has not contacted or made other arrangements with DHCD, DHCD will require the family to pay the balance in full. Failure to pay the balance in full will result in termination. DHCD may pursue collection of the payment through a collection agency.

A family, under a repayment agreement, that requests a move to another unit may be permitted to move if the repayment agreement is not delinquent. The program Director, or designee, has discretionary authority to determine if it’s in the program best interest to allow the move.

If the family requests a move to another unit and is delinquent on a repayment agreement, they will not be permitted to move.

If the family is delinquent and is required to move through no fault of their own, DHCD Section 8 Administrator may allow the family to move.

3. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

3.1 Family Error/Late Reporting

Families who owe money to DHCD due to failure to report increases in income will be required to repay the money in accordance with the guidelines under Section E of this chapter.

3.2 Program Abuse or Fraud

Families who owe money to DHCD due to program abuse or fraud will be required to repay the money in accordance with the guidelines under Section E of this chapter.

If a family owes an amount as a result of program fraud that equals or exceeds $5,000.00, the case will be referred to the local States' Attorney and HUD Inspector General Offices. When appropriate, DHCD will refer the case for criminal prosecution.

4. GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 982.552(c)]

Repayment agreements will be executed between DHCD and the head of household and the spouse or co-head of household. DHCD Section 8 Administrator must execute the repayment agreement.

Payments are acceptable by money order, cashier's check or personal check to DHCD's Finance Office or address designated by the Finance Office.

The agreement will be in default when a payment is delinquent for two consecutive months. The family will be sent a Notice of Termination that the family's assistance will be terminated unless DHCD receives the balance of the Repayment Agreement in full within 14 days of the termination notice. The notice will include the family's right to appeal the termination and the method to request an appeal.

DHCD's Program Administrator may approve decreases in the amount of the monthly payment in cases of family hardship. The family must provide reasonable notice and verification of the hardship.

No move will be approved until the debt is paid in full unless DHCD's Program Administrator approves the move as a result of the following causes:

1. Family size exceeds the HQS maximum occupancy standards,
2. The HAP contract is terminated due to owner non-compliance,
3. Emergency beyond the family's control, or
4. Owner opt-out or conversion to the Housing Choice Voucher Program.

The Department will not enter into more than one additional Agreement with the family if the family currently has a repayment agreement in place and incurs an additional debt to the PHA.

5. OWNER DEBTS TO THE PHA [24 CFR 982.453(b)]

If DHCD determines that the owner has retained Housing Assistance that the owner is not entitled to, DHCD may reclaim the amounts through offsetting future Housing Assistance owed the owner for units under contract.

If future Housing Assistance are insufficient to reclaim the amounts owed, DHCD will:

1. Require the owner to pay the amount in full within 30 days, or
2. Pursue collections and restrict the owner from future participation.

Chapter 19

COMPLAINTS AND APPEALS

1. INTRODUCTION

The informal review and hearing requirements defined in HUD regulations are applicable to participating families who disagree with a decision, action, or inaction of the Department.

This chapter describes the policies, procedures and standards to be used when families disagree with a DHCD decision, action, or inaction. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the Department to ensure that all families have the benefit of all protections due to them under the law. The Department's informal review and hearing procedures will be provided to families in their briefing packets.

2. COMPLAINTS

The Department will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The Department may require that complaints be put in writing. If the complaint is in regard to a Housing Quality Standard violation, then the family may report that complaint by telephone. The following complaints apply:

- Complaints from families: Family disagrees with an action or inaction of the Department or owner.
- Complaints from owners: Owner disagrees with an action or inaction of the Department or a family.
- Complaints from staff: DHCD staff person reports an owner or family either violating or not complying with program rules.
- Complaints from the general public: Complaints or referrals from persons in the community in regard to the Department, a family or an owner.

All complaints will be originally referred to the HCV Specialist. If the caseworker is unable to resolve the complaint, then it will be referred to the Department HCV Program Administrator.

3. PREFERENCE DENIALS [24 CFR 5.415]

An applicant is entitled to a meeting to voice his or her disagreement with a preference denial. This meeting is different from an informal review or hearing. The family will be notified in writing of the specific reason for the denial. The family will be given opportunity for a meeting to discuss the reasons for the denial and to dispute the Department's decision. A DHCD staff member above the employee who made the denial decision will conduct the meeting.

4. INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d)(12), 982.554]

Informal reviews are provided for applicants who are denied:

- A position on the Department's waiting list,
- Issuance of a Voucher, and
- Participation in the program.

The exception to this procedure is when an applicant is denied eligibility by reason of citizenship or eligible immigrant status. In such a situation the applicant is entitled to an informal hearing.

When the Department determines that an applicant is denied assistance for any of the above three reasons, the family will be notified of the decision in writing. The notice will include the specific reasons for the denial, the procedure for requesting an informal review, and the time frame to request the review.

Informal reviews are not required for established policies and procedures or DHCD decisions such as:

- Discretionary administrative determinations.
- General policy issues or class grievances.
- Refusal to extend a Voucher.
- Determination not to grant approval of the tenancy.
- Determination that a unit is not in compliance with HQS.
- Determination that a unit is not in compliance with HQS occupancy standards due to family size or composition.

4.1 Procedure for Informal Reviews for Applicants

A request for an informal review must be received in writing by the close of the business day at the office which made the decision, no later than 14 calendar days after the date of the Department's notification of denial of assistance. The date of the Department's notification is the date that is provided on the first page of the document giving such notification.

The informal review will be scheduled within seven calendar days from the date the request is received. The informal review may be conducted in person, in writing, or by telephone if agreeable by all parties involved. The informal review will be conducted by a Review Officer. The Review Officer may not be conducted by the person who made the decision or by a subordinate of that person.

During the informal review, the applicant will be given the option of presenting oral or written objections to the decision. Both the Department and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

4.2 Issuance of Decision in Informal Reviews for Applicants

A written notice of the informal review findings will be mailed to the applicant within 14 calendar days after the informal review. This notice will include the decision of the Review Officer as well as an explanation of the reasons for the decision.

All requests for informal reviews, supporting documentation, and copies of the final decisions will be retained in the family's file.

5. INFORMAL HEARING PROCEDURES FOR NON-TERMINATION DECISIONS

[24 CFR 982.555(a-f), 982.54(d)(13)]

5.1 Notice of Non-Termination Decisions Requiring Informal Hearing

The Department will provide participants with notice and the opportunity for an informal hearing for decisions related to any of the following non-termination decisions:

- The family's annual or adjusted income and the use of such income to computation of the housing assistance payment.
- The appropriate utility allowance for tenant-paid utilities from the utility allowance schedule for the unit selected by the family.
- Family unit size determination under DHCD subsidy standards.

When the Department makes a decision on any of the above issues, applicants and participants will be notified in writing. Such notice will include:

- The proposed action or decision of the Department;
- The date the proposed action or decision will take place;
- Notification that the family may ask for an explanation of the Department's decision and that, if the family does not agree with the decision, the family may request an informal hearing on the decision;
- The procedures for requesting an informal hearing to dispute the action or decision;
- The time limit for requesting the hearing; and
- To whom the hearing request should be addressed.

5.2 Instances in Which Informal Hearings Are Not Required

Informal hearings are not required for established policies and procedures and DHCD determinations such as:

- Discretionary administrative determinations.
- General policy issues or class grievances.
- Establishment of schedule of utility allowances for families in the program.
- Determination not to approve an extension of a voucher term.
- Determination not to approve a unit or tenancy.
- Determination that an assisted unit is not in compliance with HQS.
- Determination that the unit is not in accordance with HQS because of family size.
- Determination to exercise or not exercise any rights or remedy against the owner under a HAP contract.

5.3 Requests for Informal Hearings on Non-Termination Decisions

A request for a hearing on a non-termination decision must be received in writing by the close of the business day at the office which made the decision, no later than 14 calendar days after the date of the Department's notification of the decision. The date of the Department's notification is the date that is provided on the first page of the document giving such notification.

A request for a hearing on a non-termination decision should identify what decision it seeks to review and a brief explanation of the reason for which review is being sought.

5.4 Notice of Scheduling of Informal Hearings on Non-Termination Decisions

When DHCD receives a request for an informal hearing relating to a non-termination decision, a hearing will be scheduled within seven calendar days. Written notice will be provided to the person requesting the hearing, and will include the following information:

- The date and time of the informal hearing,
- The location of the informal hearing,
- The family's right to bring evidence, witnesses, and legal or other representation to the hearing, at the family's expense,
- The family's right to an opportunity, prior to the hearing, to examine documents directly relevant to the hearing, and to
- Notification that the Department may request to examine, prior to the hearing, any family documents that are directly relevant to the hearing.

5.5 Rescheduling Informal Hearings on Non-Termination Decisions

After a date has been scheduled for the informal hearing, the informal hearing may be rescheduled upon request made by the family. The informal hearing will be rescheduled for good cause. Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. DHCD may also reschedule the informal hearing for other reasons if, in DHCD's discretion, a postponement is warranted.

If a family fails to appear at a scheduled informal hearing, it will not be rescheduled unless the family contacts DHCD within 24 hours after the scheduled date and time (excluding weekends and holidays) and shows good cause for the failure to appear.

5.6 Conduct of Informal Hearings on a Non-Termination Decisions

The informal hearing shall be conducted by an Informal Hearing Officer appointed by the Department, who is neither the person who made or approved the decision, nor a subordinate of that person.

During the informal hearing, the family will be given the opportunity to:

- Provide an opening statement, present evidence, question witnesses, and provide argument.
- Present written or oral objections to the Department's determination.
- Examine the documents in the file that are the basis for the Department's action, and all documents submitted to the Hearing Officer and copy any relevant documents at their expense.
- Request that Department staff be available or present at the hearing to answer questions pertinent to the case.
- Be represented by a lawyer or other representative at their own expense.

If, in advance of the informal hearing, the family requests copies of documents relevant to the hearing, the Department will make the copies for the family and may assess a reasonable charge per copy. In no instance will the family be allowed to remove its file from the Department's office.

DHCD has a right to:

- Provide an opening statement, present evidence, question witnesses, and provide argument.
- Be notified if the family intends to be represented by a lawyer or other representative.
- Examine and copy any documents to be used by the family prior to the hearing.
- Have its attorney present.
- Have Department staff and other witnesses familiar with the case present.

The hearing shall consist of only those issues for which the family has received the opportunity for the hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing, if previously requested by the other party. Such documents include specific records and program regulations. The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

The Informal Hearing Officer will determine whether the Department's decision is lawful in accordance with applicable law and 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.

5.7 Issuance of the Decision of the Informal Hearing Officer on a Non-Termination Decision

The Informal Hearing Officer will provide a written decision to the Department and the family within 14 calendar days. The notice will include a brief statement of the Informal Hearing Officer's reason for the decision, summary and justification of the Informal Hearing Officer's decision; the amount of money owed, if any, and the calculation thereof; as well as the effective date of the Informal Hearing Officer's decision, if applicable.

The Department is not bound by hearing decisions:

- Which concern matters for which the Department is not required to provide an opportunity for a hearing;
- Which conflict with, or contradict, 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.

Within seven calendar days, the Department will send a letter to the participant if it determines that it is not bound by the Informal Hearing Officer's decision. The letter will include the Department's reasons for that determination.

All hearing requests and hearing documentation, and hearing decisions, will be retained in the family's file.

6. INFORMAL HEARING PROCEDURES FOR TERMINATION DECISIONS [24 CFR 982.555(a-f), 982.54(d)(13)]

6.1 Notice of Termination Decisions

When assistance is to be terminated, the Department will provide participants with notice ("Termination Notice") and the opportunity for an informal hearing. Such notice will include:

- The proposed action or decision of the Department;
- The date the proposed action or decision will take place;
- A brief statement of reasons for the decision;
- Notification that if the family does not agree with the decision, the family may request an informal hearing on the decision;
- The procedures for requesting an informal hearing to dispute the action or decision;
- The time limit for requesting the hearing; and
- To whom the hearing request should be addressed.

6.2 Requests for Informal Hearings on Termination Decisions

A request for hearing on a termination decision must be made within fourteen (14) days of the date of the Termination Notice.

6.2.1 Form. A "Request for Hearing" form will be included with the Termination Notice. Requests for informal hearings on termination decisions must provide (a) provide identifying information for the family member seeking review of the termination decision; (b) provide the termination decision for which review is sought; and (c) explain the reason for which review is sought.

6.2.2 Mailing. Requests for informal hearings on termination decisions must be addressed to:

Office of Administrative Hearings
Administrative Law Building
ATTN: MISC Unit
11101 Gilroy Avenue
Hunt Valley, MD 21031-1301

6.2.3 Time for Filing. A request for a hearing on a termination decision must be received in writing by the Office of Administrative Hearings no later than 14 calendar days after the date of the Department's Termination Notice.

6.3 Notice of Scheduling of Informal Hearings on Termination Decisions

The Office of Administrative Hearings will provide notice to the family of scheduling of an informal hearing on a termination decision ("Hearing Notice"). The Hearing Notice will include the following information:

- Date of the Hearing Notice;
- Case Number;
- Hearing date, time, and location;
- Decision at issue during the informal hearing;
- That failure to appear may result in dismissal of the matter;
- The family's right to bring evidence, witnesses, and legal or other representation to the hearing, at the family's expense,
- The family's right to an opportunity, prior to the hearing, to examine documents directly relevant to the hearing, and to
- Notification that the Department may request to examine, prior to the hearing, any family documents that are directly relevant to the hearing.

6.4 Rescheduling Informal Hearings on Termination Decisions

A request to reschedule an informal hearing must be directed to the Office of Administrative Hearings at the address provided in Section 6.2.2. Requests shall be made in accordance with the Rules of Procedure of the Office of Administrative Hearings, as provided in Md. Regs. 28.02.01.16, which require:

- A request for postponement shall be made in writing and filed not less than 5 days before the scheduled hearing
- Documentation of the reasons for the postponement shall be required from the party making the request.

- A request for postponement shall be granted only if the party requesting the postponement establishes good cause for the postponement.
- An emergency postponement may be made by telephone where a sudden, unforeseen occurrence requiring immediate attention arises within 5 days of the hearing.

Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family.

If a family fails to appear at a scheduled informal hearing, it will not be rescheduled unless the family contacts the Department within 24 hours after the scheduled date and time (excluding weekends and holidays) and shows good cause for the failure to appear.

6.5 Procedure for Informal Hearings on a Non-Termination Decisions

In termination decisions, the informal hearing is conducted before an Administrative Law Judge of the Office of Administrative Hearings in accordance with the procedures outlined in this Administrative Plan, the Code of Federal Regulations (24 CFR 982.555) and the Maryland Regulations applicable to conduct of hearings before the Office of Administrative Hearings (Md. Regs. 20.02.01.20).

6.5.1 Discovery

In addition to the discovery mechanisms outlined in Md. Regs. 28.02.01.13, the parties have the following right to discovery:

6.5.1.1 By family. The family must be given the opportunity to examine, prior to the hearing, any documents in the possession of the Department that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If the Department does not make the document available for examination on request of the family, the Department may not rely on the document at the hearing.

6.5.1.2 By the Department. The Department must be given the opportunity to examine at the Department’s offices, prior to the informal hearing, any documents in the possession of the family that are directly relevant to the hearing. The Department must be allowed to copy any such document at the Department’s expense. If the family does not make the document available for examination on request of the Department, the family may not rely on the document at the hearing.

6.5.2 Motions, Subpoenas.

The procedures of the Office of Administrative Hearings outlined at Md. Regs. 28.02.01.12 and 28.02.01.14 apply to informal hearings for the review of termination decisions.

6.5.3 Conduct of Informal Hearings

The Informal Hearing is treated as a contested case pursuant to the Administrative Procedure Act, as provided at Md. Code Ann., State Gov't §§ 10-201, *et seq.* The Informal Hearing shall only address those issues for which the family has received the opportunity for the hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

During the informal hearing, the family will be given the opportunity to:

- Provide an opening statement, present evidence, question witnesses, and provide argument.
- Examine the documents in the file that are the basis for the Department's action, and all documents submitted to the Hearing Officer and copy any relevant documents at their expense.
- Request that Department staff be available or present at the hearing to answer questions pertinent to the case.
- Be represented by a lawyer or other representative at their own expense.
- Present evidence in any other manner consistent with the Rules of Procedure of the Office of Administrative Hearings, Md. Regs. 28.02.01.16, and the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201, *et seq*.

DHCD has a right to:

- Provide an opening statement, present evidence, question witnesses, and provide argument.
- Be notified if the family intends to be represented by a lawyer or other representative.
- Examine and copy any documents to be used by the family prior to the hearing.
- Have its attorney present.

- Have Department staff and other witnesses familiar with the case present.

- Present evidence in any other manner consistent with the Rules of Procedure of the Office of Administrative Hearings, Md. Regs. 28.02.01.16, and the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201, *et seq*.

Based upon its review of the evidence, the Administrative Law Judge will:

- Make factual determinations relating to the individual circumstances of the family. Such factual determinations will be based upon a preponderance of the evidence presented at the hearing.

- Determine whether the Department's decision is lawful in accordance with applicable law and regulations and this Administrative Plan.

6.6 Issuance of the Decision of the Informal Hearing Officer on a Termination Decision

The Administrative Law Judge will provide a written decision ("Decision") to the Department and the family within 30 calendar days after the Informal Hearing. The Decision will include:

- Findings of fact;
- Conclusions of law;
- An Order;
- A written statement of appeal rights.

The Department is not bound by Decisions:

- Which concerns matters for which the Department is not required to provide an opportunity for a hearing;

- Which conflict with, or contradict, 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 Department or the participant may petition for judicial review of the Decision of an Administrative Law Judge within 30 days after the date the Office of Administrative Hearings sent notice of the Decision.

All hearing requests, hearing documentation, and hearing decisions, will be retained in the family's file.

7. 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 a United States Citizenship and Immigration Services ("USCIS") appeal.

Assistance to a family may not be terminated or denied while the Department hearing is pending but assistance to an applicant may be delayed pending the Department hearing.

USCIS Determination of Ineligibility

If an applicant or family member claims to be an eligible immigrant, the Department will verify the claim with the INS SAVE system and by a manual search. If unable to verify the claim, the Department will notify the applicant or family member (within ten days) of his or her right to appeal to the USCIS within thirty days. The applicant or family member will also be given the option to request an informal hearing with the Department either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give the Department a copy of the appeal and proof of mailing; otherwise, the Department may proceed to deny or terminate assistance. The time period to request an appeal may be extended by the Department for good cause.

If the family requests a hearing, the request must be made within 14 calendar days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within fourteen days of receipt of that notice.

After the receipt of a request for an informal hearing, the hearing is conducted in accordance with procedures under Section 5.4 of this chapter. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the Department will either deny the applicant family; defer termination for a family participant that qualifies for deferral; or terminate the assistance if the family does not qualify for deferral. If there are eligible members in the family, the Department will offer to pro-rate assistance or give the family the option to remove the ineligible member.

Other complaints related to eligible citizen/immigrant status may include:

- A family member is treated as ineligible if any family member fails to provide documentation or certification as required by the regulation. If all family members fail to provide documentation or certification as required, 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.

8. 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 Department is terminating participant assistance, they will be informed that the presence of a disability may be considered as a mitigating circumstance during the informal review or informal hearing process.

Chapter 20

SECTION 8 VOUCHER HOMEOWNERSHIP

1. GENERAL PROVISIONS

The Housing Choice Voucher Homeownership Program of the Maryland Department of Housing and Community Development (DHCD) offers participants who have been assisted for at least three years the option of purchasing a home with Housing Choice Voucher assistance.

The homeownership option will be limited to five families during the first year of the administration of the program.

Applicants may not owe DHCD or any other Housing Agency an outstanding debt and must meet the eligibility criteria set forth herein.

Housing Choice Voucher homeownership assistance may be used to purchase the following types of homes: single-family, condominium, or manufactured homes situated on a privately owned lot. DHCD will also permit portability of Housing Choice Voucher homeownership assistance to another jurisdiction, provided the receiving jurisdiction operates a Housing Choice Voucher homeownership program for which the Housing Choice Voucher homeownership applicant qualifies.

2. FAMILY ELIGIBILITY REQUIREMENTS

Participation in the Housing Choice Voucher homeownership program is voluntary. Each Housing Choice Voucher homeownership participant must meet the general requirements for admission to the Housing Choice Voucher program as set forth in DHCD's Administrative Plan. Such Housing Choice Voucher families also must be eligible to participate in the homeownership program. The additional requirements for participation in the Housing Choice Voucher homeownership program include the following:

2.1 First-time homeowner (except families with a disabled member).

No member of the household has had an ownership interest during the three years preceding the commencement of homeownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse, or resided in a home owned by a spouse, and no longer owns the home, is considered a "first-time homeowner" for the purposes of this program. Also, the right to purchase title to a residence under a lease-purchase agreement is not considered an "ownership interest".

2.2 Minimum income requirement

At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home (name on the title) must have a gross annual income equal to the Federal minimum hourly wage multiplied by 2000 hours.

For disabled families, the qualified annual income of the adult family members who will own the home must not be less than the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone multiplied by 12. Except in the case of an elderly or disabled family, welfare assistance is not counted in determining whether the family meets the minimum income requirement. However, if a disabled/elderly family presents proof that a lending institution has approved a loan; the family will be eligible for homeownership assistance.

With the exception of elderly and disabled families, the PHA will disregard any "welfare assistance" income in determining whether or not the family meets the minimum income requirement. Welfare assistance includes assistance from Temporary Assistance for Needy Families ("TANF"), Supplemental Security Income ("SSI") that is subject to an income eligibility test, food stamps, general assistance, or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the homeownership program. It does not affect the determination of income-eligibility for admission to the Housing Choice Voucher program, calculation of the family's total tenant payment, or calculation of the amount of homeownership assistance payments.

2.3 Employment History (except to elderly or disabled households)

Each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time (not less than an average of 30 hours per week) and has been so continuously employed for two years prior to execution of the sales agreement. DHCD may also consider whether or not, and to what extent, an employment interruption is considered permissible in satisfying the employment requirement.

DHCD may also consider successive employment during the two-year period and self-employment in a business**.** DHCD will consider as eligible those individuals who have been employed by a seasonal business for at least three consecutive years. The employment requirement does not apply to an elderly family or a disabled family.
Furthermore, if a family, other than an elderly family or a disabled family includes a person with disabilities, DHCD shall grant an exemption from the employment requirement if DHCD determines that an exemption is needed as reasonable accommodation.

2.4 FSS and Current Participants

Participants in the Housing Choice Voucher Program shall be eligible for the program upon completion of an initial voucher lease term and upon completion of the participant's second annual recertification for the Housing Choice Voucher Program. Nothing in this provision will preclude voucher participants that have been participants for two years in another jurisdiction from participating in the Housing Choice Voucher Homeownership Program provided the family has been assisted continuously for at least two years.

2.5 Repayment of Any Housing Authority Debts

Participants in the Housing Choice Voucher Program shall be ineligible for participation in the Housing Choice Voucher Homeownership Program in the event any debt remains owed to DHCD or any other Housing Authority.

2.6 Additional Eligibility Factors

Elderly and disabled families are exempt from the employment factors set forth above. In the case of an elderly or disabled family, DHCD will consider income from all sources, including welfare assistance, in evaluating whether or not the household meets the minimum income required to purchase a home through the Housing Choice Voucher Homeownership Program. The minimum annual income must equal the Federal minimum hourly wage multiplied by 2000 hours.

Prior Mortgage Defaults – If a head of household, spouse or other adult household member who will own the home has previously defaulted on a mortgage obtained through the Housing Choice Voucher homeownership program, the family will be ineligible to participate in the homeownership program.

3. FAMILY PARTICIPATION REQUIREMENTS

Once a family is determined to be eligible to participate in the program, it must comply with the following requirements:

3.1 Homeownership counseling program

A family's participation in the homeownership program is conditioned on the family attending and successfully completing a homeownership counseling program approved by DHCD prior to commencement of homeownership assistance. The homeownership and counseling program will include home maintenance; budgeting and money management; credit counseling; negotiating

purchase price; securing mortgage financing; finding a home; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families.

DHCD will provide a list of HUD-approved homeownership counseling agencies. DHCD will require families to participate in pre-purchase and post-purchase counseling.

3.2 Locating and Purchasing a Home

- Locating a Home

  Upon issuance of the Housing Choice Voucher for the Homeownership Option, a family shall have 120 days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to DHCD. DHCD may extend a participant's time to locate the home for additional 60-day increments if there is good cause to allow additional search time. During a participant's search for a home to purchase, the Housing Choice Voucher rental assistance shall continue. If a family is unable to locate a home within the time approved by DHCD, the Housing Choice Voucher rental assistance through the Housing Choice Voucher Program shall continue.

- Type of Home

  A family approved for Housing Choice Voucher homeownership assistance may purchase the following types of homes: a new or existing home, which may be a single-family home, a condominium, a cooperative, a home in a planned use development, or a manufactured home to be situated on a privately owned lot. The home must already exist or be under construction at the time DHCD determines that the family is eligible for homeowner-ship assistance. The family also may purchase a home in another jurisdiction, provided the Housing Agency in the receiving jurisdiction operates a Housing Choice Voucher Homeownership Program for which the family qualifies. In this case, a family's participation in the homeownership program will be subject to the Housing Choice Voucher Homeownership Program policies of the receiving jurisdiction.

- Purchasing a Home

  Once a home is located and a sales agreement, approved by DHCD, is signed by the family, the family shall have up to three months to purchase the home.

- Failure to Complete Purchase

  If the family is unable to purchase the home within the maximum time permitted by DHCD, DHCD shall continue the family's rental assistance under the Housing Choice Voucher Program. The family may not reapply for the Housing Choice Voucher Homeownership Program until they have completed two additional years of participation in the Housing Choice Voucher Program following the initial determination of its eligibility for the homeownership option.

- Lease-Purchase

  Lease-purchase agreements are not permitted.

3.3. Contract of Sale

Prior to execution of the contract of sale, the financing terms must be provided to DHCD for approval. The lender will pre-qualify the family and DHCD will review the terms of the loan. DHCD will also review the contract of sale. The contract of sale must provide for an inspection by DHCD and an independent inspection and must state that the purchaser is not obligated to purchase unless such inspections are satisfactory to DHCD. The contract of sale must also provide that the purchaser is not obligated to pay for any necessary repairs. The contract of sale must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by DHCD. The contract of sale must also contain a seller certification that the seller is not debarred, suspended, or subject to a limited denial of participation under the Code of Federal Regulations, part 24.

3.4 Independent Initial Inspection

The home must comply with the housing quality standards of the Housing Choice Voucher Program. Additionally, an independent inspection of existing homes covering major building systems must be completed by a professional selected by the family and approved by DHCD. DHCD will not pay for the independent inspection. The independent report must be provided to DHCD. DHCD may disapprove the unit due to information contained in the report or for failure to meet federal housing quality standards.

3.5 Financing Requirements

The proposed financing terms must be submitted to and approved by DHCD prior to close of escrow. DHCD shall determine the affordability of the family's proposed financing. In making such determination, DHCD may take into account other family expenses, including but not limited to child care, unreimbursed medical expenses and the like. Certain types of financing,

including by not limited to, balloon payment mortgages and adjustable rate mortgages, are prohibited and will not be approved by DHCD. Seller-financed mortgages shall be considered by DHCD on a case-by-case basis. If a mortgage is not FHA-insured, DHCD will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, Maryland Bond Program, USDA Rural Housing Services, the Federal Home Loan Bank of America, or other private lending institutions.

3.6 Compliance with Family Obligations

A family must agree, in writing, to comply with all family obligations under the Housing Choice Voucher Program and DHCD's homeownership policies. These obligations include:

- Attending ongoing homeownership and housing counseling classes
- Complying with the terms of any mortgage terms incurred to purchase and/or refinance the home
- Not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance
- Providing DHCD with written notice of any proposed sale or transfer of any interest in the home or of any plan to move out of the home prior to moving
- Not refinancing or adding debt secured by the home without prior approval by DHCD
- Not obtaining a present ownership interest in another residence while receiving homeownership assistance
- Supplying all required information to DHCD including, but not limited to, annual verification of household income, annual notice of homeownership expenses or any change in homeownership expenses, notice of move-out, and notice of mortgage default received by the family, and any other notices which may be required pursuant to DHCD homeownership policies.

4. AMOUNT OF ASSISTANCE

The amount of the monthly assistance will be based on the voucher payment standard for which the family is eligible, the monthly homeownership expenses and the family's household income. DHCD will pay the lower of either the payment standard minus the total family contribution (TFC) or the family's monthly homeownership expenses minus the TFC. The family will pay the difference.

4.1 Determining the Payment Standard

The voucher payment standard is the fixed dollar amount the Maryland Department of Housing and Community Development establishes for a unit of a particular size located within DHCD jurisdictions. For the homeownership program, the payment standard for which the family is eligible will be the lower of either (1) the payment standard for which the family is eligible based upon family size, or (2) the payment standard which is applicable to the size of the home the family decides to purchase. The payment standard for subsequent years will be based upon the higher of (1) the payment standard in effect at commencement of the homeownership assistance, or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of this comparison, shall not be adjusted even if there is a subsequent decrease in family size. As a reasonable accommodation to families that include a person with disabilities, DHCD will request higher payment standards from HUD.

4.2 Determining the Monthly Homeownership Expense

Monthly homeownership expense includes all of the following: principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per DHCD allowance; costs of major repairs and replacements per DHCD allowance (replacement reserves); utility allowance per DHCD's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home including changes needed to make the home accessible; and homeowner association dues, fees or regular charges assessed, if any.

4.3 Determining the Total Family Contribution (TFC)

The TFC is that portion of the homeownership expense that the family must pay. It is generally 30% of the family's adjusted income, plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's monthly-adjusted income for purposes of determining the amount of assistance.

4.4 Payment to Family or Lender

DHCD will provide the lender with notice of the housing assistance payment prior to close of escrow and will pay DHCD's contribution towards the family's homeowner expense directly to the family (as a two-party check) unless otherwise requested by the lender. The family will be responsible for submitting the entire mortgage payment to the lender unless DHCD is submitting its portion to the lender.

5. TERMINATION HOMEOWNERSHIP ASSISTANCE

5.1 Grounds for Termination of Homeownership Assistance

- Failure to Comply with Family Obligations under Housing Choice Voucher Program or DHCD's Homeownership Policies

A family's homeownership assistance may be terminated if the family fails to comply with its obligations under the Housing Choice Voucher Program, DHCD homeownership policies, or if the family defaults on the mortgage.

- Occupancy of Home

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, DHCD will terminate home ownership assistance, commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse DHCD for homeownership assistance paid for the month in which the family moves out.

- Changes in Income Eligibility

Following annual reexamination of the family's income, the homeownership assistance may change, but homeownership assistance will continue until such time as the assistance payment amounts to $0 for a period of six consecutive months.

- Maximum Term of Homeownership Assistance

With the exception of disabled and elderly families, a family may receive Housing Choice Voucher Homeownership Program assistance for not longer than fifteen years from the date of close of escrow, unless the initial mortgage incurred to finance purchase of the home has a term that is less than twenty years, in which case the maximum term is ten years. Families that qualify as elderly at the commencement of homeownership assistance are not subject to a maximum term limitation. Families that qualify as disabled families at the commencement of homeownership assistance or at any time during the provision of homeownership assistance are not subject to a maximum term limitation. If a disabled family or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date homeownership assistance commenced provided, however, that such family shall be eligible for at least six additional months of homeownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that homeownership payments are

made or is a spouse of any member of the household who has an ownership interest.

5.2 Procedure for Termination of Homeownership Assistance

A participant in the Housing Choice Voucher Homeownership Program shall be entitled to the same termination notice and informal hearing procedures as set forth in the Administrative Plan of the Maryland Department of Housing and Community Development for the Housing Choice Voucher Program.

6. CONTINUED PARTICIPATION

6.1 Default on FHA-Insured Mortgage

If the family defaults on a FHA-insured mortgage, DHCD may permit the family to move with continued Housing Choice Voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee as required by HUD, and (b) moved from the home within the period established or approved by HUD.

6.2 Default on non-FHA-Insured Mortgage

If the family defaults on a mortgage that is not FHA-insured, DHCD may permit the family to move with continued Housing Choice Voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to the lender, to DHCD or to its designee, as may be permitted or required by the lender, and (b) moved from the home within the period established or approved by the lender and/or DHCD.

6.3 Continued Housing Choice Voucher Rental Assistance

A family terminated from the homeownership program will remain eligible for Housing Choice Voucher rental assistance.

7. WAIVER OR MODIFICATION OF HOMEOWNERSHIP POLICIES

The Director of the Rental Service Programs shall have the discretion to waive or modify any provision of the Housing Choice Voucher homeownership program or policies not governed by statute or regulations for good cause or to comply with changes in HUD regulations or directives.

Chapter 21

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

INTRODUCTION

The project-based voucher (PBV) program allows PHAs that already administers a tenant-based voucher program under an annual contribution contract (ACC) with HUD to attach voucher assistance to specific housing units for which a HAP contract has been executed. The PHA will enter into a HAP Contract with an Owner for units in existing housing, new construction or rehabilitated housing. In the case of newly constructed or rehabilitated housing, the housing is developed under an agreement between the Owner and the PHA. In the agreement, the PHA agrees to execute a Housing Assistance Payments (HAP) Contract after the owner completes the construction or rehabilitation of the units. During the term of the HAP contract the PHA makes housing assistance payments to the owner for units leased and occupied by eligible families.

All program activities, unless indicated otherwise, or superseded by the regulations, will be in conformance with the Housing Choice Voucher Program Administrative Plan. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

1. DHCD SOLICITATION PROCESS [24 CFR 983.51(c)]

DHCD will advertise its intent to offer Project Based Vouchers via a Request for Proposals (RFP) consistent with broad public announcement methods which may include posting on DHCD's website at www.dhcd.maryland.gov, newspaper publications and other means of notice. In the advertisement, DHCD will announce the availability of project-based vouchers via a Request for Proposals (RFP). The RFP will state the application deadline, the details of the application process and where application can be obtained. In order for a proposal to be considered, the owner/agent must submit a complete proposal that responds to all the requirements in the RFP. Proposals must be submitted to the PHA Director within the advertised time period and deadline for submission. DHCD will provide detailed application and selection information at the request of interested parties.

2. DHCD PROPOSAL SELECTION PROCESS [24 CFR 983.51]

DHCD will select PBV proposals pursuant to one or both of the following methods:

2.2 Request for PBV Proposals in accordance with 24 CFR §983.51(b) (1)

DHCD may select proposals using a RFP on a competitive basis. DHCD may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

2.3 Select previous proposal in accordance with 24 CFR [983.51(b) (2)]

DHCD may select prior competitive selection of projects under a federal, state or local governmental housing assistance program that did not involve any consideration that the projects would receive PBV assistance, provided that the prior competition was held within 3 years of the PBV proposal selection date.

2.4 Notice of proposal selection in accordance with 24 CFR [983.51(d)]

DHCD will select PBV proposals that promote and enhance the development and/or maintenance of an adequate supply of safe, decent and affordable housing and that assure, where applicable, that persons with supportive service needs have access to appropriate services and accessible housing options, consistent with HUD's site selection regulations using an impartial committee of DHCD staff to make recommendations for each project. Owner or Developers whose proposals have been selected and not selected will be informed in writing.

3. DHCD SITE SELECTION STANDARDS [24 CFR 983.57]

3.1 Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site that the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of de-concentrating poverty and expanding housing and economic opportunities. The standard for de-concentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR §903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable civil rights laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

It is DHCD's goal to select sites for PBV housing that provide for de-concentrating poverty and expanding housing and economic opportunities.

3.2 Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA may not select a site or enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

3.3 New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;

- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

  Except for housing designed for persons who are elderly, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

4. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and applicable federal laws and authorities in accordance with HUD's regulations at 24 CFR 58.5 and 58.6. The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

- In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

  The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities, until the environmental review is completed.

5. OCCUPANCY [24 CFR 983.251]

The Department's project based selection system complies with the following program requirements:

- DHCD may create special project-based waiting lists to meet specific goals for housing families meeting specific criteria.

- DHCD may select qualified applicants from current HCVP participating households or from the waiting list.

- The PHA may place a family referred by an owner of a project based voucher unit on its waiting list, subject to stated waiting list policies and preferences.

Families may request to move with a tenant-based voucher after one year from the date that the lease is fully executed. Tenant-based vouchers will only be issued to PBV participants in good standing and based on available funding.

In cases where, after initial tenancy, the family is occupying a wrong-size unit (as determined by the HCV subsidy standards) or a unit that has accessibility features not required by the family and the unit is needed by a family that requires this accessibility feature, DHCD will promptly notify the owner and the family can be offered assistance the earlier of:

- Another appropriate-size unit in the same building; or

- Tenant-based assistance, if funding is available. Tenant based voucher assistance will be offered to families required to move at the end of their lease term or 120 days whichever is earlier.

6. VACANCY PAYMENTS [24 CFR 983.352]

As provided in Section 983.352 of PBV regulations, it is the sole election of the PHA whether or not vacancy payments will be provided. DHCD's policy regarding vacancy payments is as follows.

The maximum vacancy payment can be no more than two full months of monthly rent to owner under the assisted lease after the month the family moves out minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Vacancy payments can only cover the portion of time the unit remains vacant during the period defined.

The PHA may only make vacancy payments to the owner if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and the date when the family moved out (to the best of the owner's knowledge and belief);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

- The owner certifies that is has taken every reasonable action to minimize the likelihood and length of vacancy; and

- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

- The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payments.

If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the PHA to fill such vacancies), the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.