Moline Housing Authority

ADMISSIONS & CONTINUED OCCUPANCY POLICY

FOR

LOW-INCOME PUBLIC HOUSING

Approved by the MHA Board of Commissioners:

Submitted to HUD:

Copyright 2026 by Moline Housing Authority

All rights reserved

This document may not be reprinted or distributed to any other person or entity other than the purchasing agency without the express written permission of Moline Housing Authority.

Table of Contents

INTRODUCTION

STATEMENT OF POLICIES GOVERNING ELIGIBILITY, SELECTION AND ADMINISSIONS

DEFINITIONS

CHAPTER 1
OVERVIEW OF THE PROGRAM AND PLAN

PART I: THE PHA 1-2

PART II: THE PUBLIC HOUSING PROGRAM 1-5

PART III: THE ADMISSION & CONTINUED OCCUPANCY POLICIES 1-10

CHAPTER 2
FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION 2-2

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES 2-5

PART III: IMPROVING ACCESS TO SERVICE FOR PERSONS WITH LIMITED ENGLISH PRFICIENCY (LEP) 2-11

Exhibit 2-1: Definition of a Person with a Disability Under Federal Civil Rights Laws 2-13

CHAPTER 3
ELIGIBILITY

PART I: DEFINITIONS OF FAMILY & HOUSEHOLD MEMBERS 3-2

PART II: BASIC ELIGIBILITY CRITERIA 3-10

PART III: DENIAL OF ADMISSION 3-14

Exhibit 3-1: Detailed Definitions Related to Disabilities 3-25

Table of Contents

CHAPTER 4
APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I: THE APPLICATION PROCESS 4-2

PART II: MANAGING THE WAITING LIST 4-4

PART III: TENANT SELECTION 4-8

CHAPTER 5
OCCUPANCY STANDARDS AND UNIT OFFERS

PART I: OCCUPANCY STANDARDS 5-2

PART II: UNIT OFFERS 5-5

CHAPTER 6
INCOME AND RENT DETERMINATIONS

PART I: ANNUAL INCOME 6-2

PART II: ADJUSTED INCOME 6-25

PART III: CALCULATING RENT 6-32

Exhibit 6-1: Annual Income Inclusions 6-40
Exhibit 6-2: Annual Income Exclusions 6-43
Exhibit 6-3: Treatment of Family Assets 6-45
Exhibit 6-4: Earned Income Disallowance for Persons with Disabilities 6-46
Exhibit 6-5: The Effect of Welfare Benefit Reduction 6-49

CHAPTER 7
VERIFICATION

PART I: GENERAL VERIFICATION REQUIREMENTS 7-2

PART II: VERIFYING FAMILY INFORMATION 7-8

PART III: VERIFYING INCOME AND ASSETS 7-15

PART IV: VERIFYING MANDATORY DEDUCTIONS 7-19

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice 7-24
Exhibit 7-2: Summary of Documentation Requirements for Noncitizens 7-28

Table of Contents

CHAPTER 8
LEASING AND INSPECTIONS

PART I: LEASING 8-2

PART II: INSPECTIONS 8-9

CHAPTER 9
REEXAMINATIONS

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS 9-2

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS 9-6

PART III: INTERIM REEXAMINATIONS 9-8

PART IV: RECALCULATING TENANT RENT 9-12

CHAPTER 10
PETS

PART I: ASSISTANCE ANIMALS 10-2

PART II: GENERAL POLICY REGULATIONS 10-4

PART III: OWNER RESPONSIBILITIES 10-8

PART IV: PET REMOVAL 10-12

Exhibit 10-1: Pet Permit Application 10-13

CHAPTER 11
COMMUNITY SERVICE

PART I: COMMUNITY SERVICE REQUIREMENT 11-2

PART II: IMPLEMENTATION OF COMMUNITY SERVICE 11-9

Exhibit 11-1: Community Service and Self-Sufficiency Policy 11-10
Exhibit 11-2: Definition of a Person with a Disability Under Social Security Acts 216(i)(1) and Section 1416 (excerpt) for Purposes of Exemption from Community Service 11-14
Exhibit 11-3: PHA Determination of Exemption for Community Service 11-15

Table of Contents

CHAPTER 12
TRANSFER POLICY

PART I: EMERGENCY TRANSFERS 12-2

PART II: MHA REQUIRED TRANSFERS 12-3

PART III: TRANSFERS REQUESTED BY TENANTS 12-6

PART III: TRANSFER PROCESSING 12-9

CHAPTER 13
LEASE TERMINATIONS

PART I: TERMINATION BY TENANT..... 13-2

PART II: TERMINATION BY MHA - MANDATORY..... 13-3

PART III: TERMINATION BY MHA – OTHER AUTHORIZED REASONS 13-5

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING..... 13-17

CHAPTER 14
GRIEVANCE PROCEDURE

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS 14-2

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS..... 14-5

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS..... 14-9

CHAPTER 15
PROGRAM INTEGRITY

PART I: PREVENTING, DETECTING AND INVESTIGATING ERRORS AND PROGRAM ABUSE 15-2

PART II: CORRECTIVE MEASURES AND PENALTIES 15-5

CHAPTER 16
PROGRAM ADMINISTRATION

PART I: SETTING UTILITY ALLOWANCES..... 16-2

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS 16-6

Table of Contents

PART III: FAMILY DEBTS TO MHA 16-9

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS) 16-12

PART V: RECORD KEEPING 16-15

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL 16-18

PART VII: NOTIFICATION TO APPLICANTS AND TENANTS REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA) 16-19

Exhibit 16-1: Sample Notice to Public Housing Applicants and Residents Regarding the Violence Against Women Act (VAWA) 16-24

APPENDICES

APPENDIX A ..... INCOME LIMITS

APPENDIX B ..... UTILITY ALLOWANCES

APPENDIX C ..... FLAT RENTS

APPENDIX D ..... FRAUD

APPENDIX E ..... RENT POLICY

APPENDIX F ..... BARRED POLICY

APPENDIX G ..... REASONABLE ACCOMMODATIONS

APPENDIX H ..... RENT DETERMINATION POLICY

APPENDIX I ..... RESIDENTIAL LEASE AGREEMENT TERMS & CONDITIONS

APPENDIX J . SCREENING APPLICANTS WHO CLAIM MITIGATING CIRCUMSTANCES

APPENDIX K ..... EIV POLICY

APPENDIX L ..... SECURITY SAFETY POLICY

APPENDIX M ..... PARKING POLICY

Introduction

ABOUT THE ACOP

HOTMA CHANGES IN THE ACOP

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

HOTMA 102/104

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, and reexams (among others) to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD has delayed the compliance date for HOTMA 102/104. Initially, HUD published a delayed compliance date of January 1, 2025, but HUD again delayed the compliance date for HOTMA 102/104 and no new date has been provided. *Compliance* with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to comply with HOTMA 102/104 because compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible. However, HUD has determined that a few HOTMA 102/104 policies are not dependent on transition systems and easily isolated from other HOTMA 102/104 policy changes. These policies may be implemented prior to the migration to HIP.

HUD stated that PHAs may update their policy documents before determining the date at which they will transition to all HOTMA Section 102 and 104 policies. HUD stated that in order to update their policy documents for HOTMA in this circumstance, PHAs may create an appendix that contains the HOTMA policies that will be incorporated at a later date. The model policy adopts such an approach. HOTMA 102/104 policies are provided in each affected area of the model policy. However, with the exception of the policies HUD has indicated may be adopted early, HOTMA policies that are "on hold" are indicated in the model policy as such. Further, an appendix has been provided to explicitly call out those policies that are on hold.

Local Objectives

This Admission and Continued Occupancy Plan for the Public Housing Program is designed to demonstrate that MHA is managing its program in a manner that reflects its commitment to improving the quality of housing available to its public and its capacity to manage the housing in a manner that demonstrates its responsibility to the public trust.

Purpose of the ACOP

The purpose of this policy is to establish guidelines for the Moline Housing Authority staff to

follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements of HUD with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicant, residents, and MHA.

MHA's Board of Commissioners must approve the original policy and any changes. Required portions of this Plan will be provided to HUD.

Service and Accommodations Policy

It is the policy of the MHA to provide courteous and efficient service to all applicants for housing assistance. In that regard, MHA will endeavor to accommodate persons with disabilities, as well as those persons with language and literacy barriers.

This policy is applicable to all situations described in the Admissions and Continued Occupancy Policy when a family initiates contact with MHA, when MHA initiates contact with a family including when a family applies, and when MHA schedules or reschedules appointments of any kind.

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

MHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on MHA forms and letters to all families, and all requests will be verified so that MHA can properly accommodate the need presented by the disability.

The number of persons currently employed at such facility, the number of families currently likely to need such accommodations, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

Family Outreach

MHA will communicate the status of housing availability to other service providers in the community. MHA will advise them of housing eligibility factors and guidelines in order that they can make proper referrals for those who seek housing.

Privacy Policy

It is the policy of Moline Housing Authority (MHA) to facilitate the full exercise of rights conferred on individuals under the Privacy Act of 1974, *5* U.S.C *552A,* and to ensure the protection of privacy of individuals about whom the Housing Authority maintains records under its Low-Rent Housing Program.

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

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

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

MHA's practices and procedures are designed to safeguard the privacy of applicants and tenants.

MHA staff will not discuss or access family information contained in files unless there is a business reason to do so. Staff will be required to disclose whether he or she has relatives living in Public Housing. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Authority

Eligibility for admission to and occupancy of Low-Income Public Housing is governed by requirements of the Department of Housing and Urban Development, with some latitude for local policies and procedures. This Admissions and Continued Occupancy Policy (ACOP) incorporates these requirements and is binding upon applicants, residents, and the Housing Authority alike, the latter two through inclusion of the ACOP into the Dwelling Lease by reference. All applicable Federal, State and local laws, including Fair Housing and regulations apply. Changes in applicable Federal law or regulations shall supersede this policy at any point in which they are in conflict.

Objectives

The objectives of this policy are to:

Promote the overall goal of drug-free, healthy, safe, affordable, decent, and sanitary housing in good neighborhoods by:

1. Ensuring a social and economic mix of low-income residents within each public housing neighborhood in order to foster social stability and upward mobility;
2. Ensuring the fiscal stability of the Housing Authority; and,
3. Lawfully denying admissions or continued occupancy to families whose presence in a public housing neighborhood is likely to adversely affect the health, safety, or welfare of other residents or the physical environment of the neighborhood.

Facilitate the efficient management of the housing authority and compliance with Federal Regulations by establishing the policy basis for management procedures, record keeping, and auditing.

Comply in letter and spirit with Title VI of the Civil Rights Act of 1964 and all other applicable Federal Laws and regulations to ensure that admission to and occupancy of public housing neighborhoods is conducted without regard to race, color, creed, sex, or national origin.

Prescribe standards and criteria for resident selection and annual reexamination of income and family composition.

REFERENCES CITED IN THE ACOP

Authority for MHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs MHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to MHA policy. Finally, the public housing lease will affect MHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of MHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a "safe harbor."

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the "old" and "new" versions of the guidebook. The "old" version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements,* p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to site the Public Housing Occupancy Guidebook.

Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

Resources and Where to Find Them

The HUD website is https://www.hud.gov/.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips

Following is a list of resources helpful to the PHA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations http://www.ecfr.gov
Enterprise Income Verification (EIV) System PHA Security Procedures https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF
Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063.html
Federal Register https://www.federalregister.gov/
HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email
HOTMA Implementation Notice, PIH 2023-27 https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf
Notice PIH 2010-26, Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
Public Housing Occupancy Guidebook, June 2003 https://www.hud.gov/sites/documents/DOC_10760.PDF
VAWA Resources https://www.hud.gov/vawa

Terminology

"He" or **"his"** used throughout this document is used in the generic sense to include male/female, singular/plural as appropriate.

Moline Housing Authority (MHA) is also referred to as the "Housing Authority" or "MHA" throughout this document.

"Family" is used interchangeably with "Applicant", "Resident", or "Participant" or can refer to a single-person family.

"Tenant" is used to refer to participants in terms of their relation as a lessee to MHA as the landlord.

"Landlord" refers to MHA.

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

See **DEFINITIONS** for additional terminology.

STATEMENT OF POLICIES GOVERNING ELIGIBILITY, SELECTION AND ADMISSIONS

INTRODUCTION

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) requires that Authorities provide a statement of the policies governing eligibility, selection, admissions, assignment and occupancy of families with respect to public housing dwelling units, including procedures for maintaining waiting lists and a deconcentration policy.

Included in this section of the Agency Plan is the Authority's Admissions and Continued Occupancy Policy, Public Housing Lease, and Section 8 Administrative Plan, all of which specifically address the required policies and procedures in detail. In addition to this document we are providing a summary of information as required by HUD's Agency Plan Template.

AGENCY PLAN TEMPLATE

Public Housing Program

Eligibility

a. MHA verifies eligibility upon submission of their application for housing.

b. MHA conducts criminal/drug-related activity background and rental history checks.

c. MHA may request criminal records from the local law enforcement agency.

d. MHA may request criminal records from the FBI.

Waiting List Organization

a. MHA maintains separate waiting lists for Section 8 and Public Housing.

b. Applicants may apply at MHA's central office. Accommodations will be made for people with disabilities.

c. MHA has no plans to operate site-based waiting lists.

Assignment

a. One (1) unit offer is made to each applicant before being placed at the bottom of the waiting list.

b. This is consistent for all unit offers.

Admissions Preference

a. MHA may exceed HUD's targeting requirement of more than 40% of all new admissions are at or below 30% of AMI.

b. Transfer Policies: Emergencies, Overhoused, Underhoused, Medical Justification, and Administrative Reasons.

c. Preference: MHA offers the following preferences:
   Involuntarily Displaced
   Preference for Elderly
   Preference for Disabled

Occupancy

a. Residents can refer to their Lease and the ACOP for information about rules of occupancy, which are both located in this section of the Agency Plan.

Deconcentration and Income Mixing

MHA has done an analysis of its public housing developments and has determined that there is not a concentration of poverty in any one development as compared to other MHA developments.

Section 8 Program

Eligibility

a. MHA verifies eligibility upon submission of their application for housing.

b. MHA conducts criminal/drug-related activity background and rental history checks.

c. MHA may request criminal records from the local law enforcement agency.

Waiting List Organization

a. MHA maintains separate waiting lists for Section 8 and Public Housing.

b. Applicants may apply at MHA's administrative office. Accommodations are made for people with disabilities.

Search Time

a. MHA does give extensions on standard sixty (60) day periods to search for a unit.

Admissions Preference

a. Involuntarily Displaced

b. Preference for Elderly

c. Preference for Disabled

Special Purpose Section 8 Assistance Programs

a. Policies governing eligibility, selection, and admissions to any special-purpose Section 8 program administered by MHA can be found in the Administrative Plan.

b. The MHA announces the availability of any special purpose Section 8 programs to the public through published notices.

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
HA	Housing authority or housing agency
HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program

HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
JTPA	Job Training Partnership
Act **LBP**	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget \
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income

SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Prior to PHA implementation of HOTMA 102/104: Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Upon PHA implementation of HOTMA 102/104: Annual income. All amounts not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household, spouse or cohead, plus unearned income by or on behalf of each dependent who is under 18 years of age.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

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

Ceiling rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only

where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for 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.

Citizen. *A* citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self- employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship

Day laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

De minimis error. An error that results in a difference in the determination of a family's adjusted income of $30 or less per month.

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

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a

disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

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

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

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set at no less than 80 percent of the applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency.*

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Income Validation Tool (IVT) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by

comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements

Individual with handicaps. See *person with disabilities.*

Upon PHA implementation of HOTMA 102/104: Inflationary index. An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on net family assets, the amount of net assets the PHA may determine based on self-certification by the family, and the dependent deduction.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minimum rent. An amount established by the PHA of zero to $50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Prior to PHA implementation of HOTMA 102/104: Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Upon PHA implementation of HOTMA 102/104: Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received

therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Upon PHA implementation of HOTMA 102/104: Real property. Has the same meaning as that provided under the law of the State in which the property is located.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy- conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretakers.

DEF-I.F. AMENDMENTS AND DEVIATION DEFINITIONS

For the purpose of 24 CFR Part 902.7®, PHAs are required to define and adopt their own standards of substantial deviation from the Five-year Plan and Significant Amendments to the Annual Plan. The definition of significant amendment is important because it defines when a PHA will subject a change to the policies or activities described in the Annual Plan to full public hearing and HUD review before implementation

Substantial Deviation from the Five-year Plan

Goals

Additions or deletions of Strategic Goals

Significant Amendment or Modification to the Annual Plan

Programs

Any change with regard to demolition or disposition, designation of housing, home ownership programs or conversion activities.

Capital Budget

Additions of non-emergency work items in excess of $25,000 (items not included in the current Annual Statement of Five-Year Plan) or change in excess of $25,000 in use of replacement reserve funds.

Policies

Changes to rent or admission policies or organization of waiting list.

An exception to the above definitions will be made for any of the above that are adopted to reflect changes in HUD regulatory requirements since such changes are not considered significant amendments by HUD

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

MHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. MHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. MHA enters into an Annual Contributions Contract with HUD to administer the public housing program. MHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about MHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of MHA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: MHA

1-I.A. OVERVIEW

This part describes MHA's creation and authorization, the general structure of the organization, and the relationship between MHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF MHA

Public housing is funded by the federal government and administered by the Moline Housing Authority for the jurisdiction of the of Moline, Illinois.

PHAs are governed by a board of officials that are generally called "commissioners." Although some PHAs may use a different title for their officials, this document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which MHA conducts business, and ensures that those policies are followed by MHA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of MHA are taken through written resolutions, adopted by the board and entered into the official records of MHA.

The principal staff member of MHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day-to-day operations of MHA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising MHA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some PHAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. MHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

Vision Statement: **We envision an ever-increasing nation-wide movement to restore preserve and revitalize the quality of life in Public Housing Communities and promoting opportunities in the process. The Moline Housing Authority will be recognized as a contributor and leader in the movement. We envision the Moline Housing Authority to become the leading property manager and preferred developer of quality, affordable housing in the City of Moline.**

Mission Statement: **The mission of the Moline Housing Authority is to provide and facilitate the availability of decent, quality and affordable housing in a safe and secure living environment, improve neighborhoods and the quality of life for low-and moderate-income residents throughout the City of Moline. In order fulfill this mission, Moline Housing Authority must preserve its aging housing stock through timely maintenance and modernization of developments. While continuing this effort, we promote resident and community participation by involving our residents and stakeholders in the decision-making process, thereby providing world class, efficient, and compassionate service that reflects the needs, wants, expectations and aspirations of residents and the community as a whole.**

Our guiding principles are: promote resident independence, expand cultural proficiency, collaborate with others, ensure our own competence, and act as one organization.

AT THE MOLINE HOUSING AUTHORITY, WE PROVIDE HOUSING AND OPPORTUNITIES.

1-I.D. MHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, MHA is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, MHA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE)— for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for extremely low-, very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing MHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of MHA's support systems and commitment to our employees and their development.

MHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with MHA to administer programs in accordance with HUD regulations and provides an operating subsidy to MHA. MHA must create written policies that are consistent with HUD regulations. Among these policies is MHA's Admissions and

Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of MHA.

The job of MHA pursuant to HUD regulations is to provide safe, habitable dwelling units to low-income families at an affordable rent. MHA screens applicants for public housing and, if they are determined to be eligible for the program, MHA makes an offer of a housing unit. If the applicant accepts the offer, MHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with MHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since MHA owns the public housing development, MHA is the landlord. MHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and MHA policy.

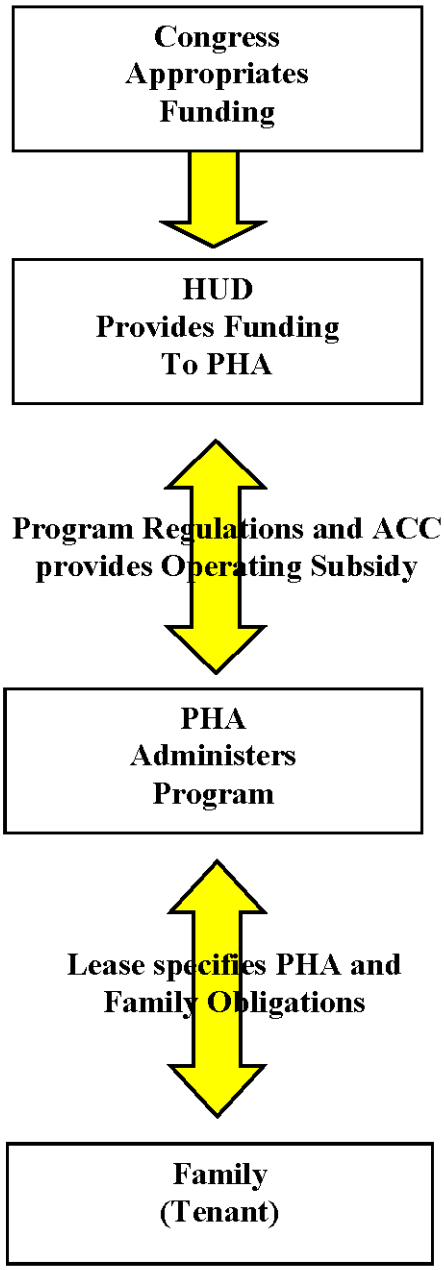
1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, MHA must enter into an Annual Contributions Contract (ACC) with HUD. MHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, MHA and the family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, MHA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration.

What does MHA do?

MHA's responsibilities originate in federal regulations and the ACC. MHA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of safe, habitable dwelling units [including assuring compliance with uniform physical conditions standards, or the National Standards for the Physical Inspection of Real Estate (NSPIRE), whichever is applicable]
- Make sure MHA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service

- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the HUD-approved applications for funding, MHA's ACOP, and other applicable federal, state and local laws.

What does the tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and MHA house rules, as applicable
- Provide MHA with complete and accurate information, determined by MHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by MHA
- Allow MHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards or NSPIRE caused by the family
- Not engage in drug-related or violent criminal activity
- Notify MHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify MHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.
- Take care of the housing unit and report maintenance problems to MHA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions

- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is MHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in MHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. MHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in MHA's written policy. At a minimum, the ACOP plan should cover MHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any MHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening MHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to MHA of amounts the family owes MHA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10).

Mandatory vs. Discretionary Policy

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD's new direction emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE ADMISSION & CONTINUED POLICY

MHA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of MHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

MHA Policy

MHA will review and update the ACOP as needed, to reflect changes in regulations, MHA operations, or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of MHA's public housing operations.

This chapter describes HUD regulations and MHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of MHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of MHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. MHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Violence against Women Act of 2013 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as MHA policies, can prohibit discrimination against additional classes of people.

MHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

MHA Policy

MHA will not discriminate on the basis of marital status, gender identity, or sexual orientation. [FR Notice 02/03/2012]

MHA Policy

MHA does not identify any additional protected classes.

MHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

MHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, MHA will provide information to public housing applicant families about civil rights requirements.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by MHA, the family should advise MHA. HUD requires MHA to make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

In all cases, the MHA may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

Upon receipt of a housing discrimination complaint, the MHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]

MHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify MHA either orally or in writing.

Within 10 business days of receiving the complaint, the MHA will provide a written notice to those alleged to have violated the rule. The MHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

MHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify MHA either orally or in writing.

Within 10 business days of receiving the complaint, MHA will provide a written notice to those alleged to have violated the rule. MHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

MHA will attempt to remedy discrimination complaints made against MHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of MHA's investigation, MHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

MHA Policy

Applicants or tenant families who wish to file a VAWA complaint against MHA may notify MHA either orally or in writing.

MHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). MHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

MHA will attempt to remedy complaints made against MHA and will conduct an investigation into all allegations of discrimination.

MHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)**PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

MHA must ensure that persons with disabilities have full access to MHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

MHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

MHA Policy

MHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by MHA, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies practices and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for MHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), MHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing "large-print" forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a change in the family's rent due date to correspond with the receipt of the head of

household or spouse/cohead's SSI or SSDI benefits

- Allowing an MHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with MHA staff
- Displaying posters and other housing information in locations throughout MHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that MHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to MHA's programs and services.

If the need for the accommodation is not readily apparent or known to MHA, the family must explain the relationship between the requested accommodation and the disability.

> MHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, MHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, MHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to MHA's programs and services.

If a person's disability is obvious or otherwise known to MHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to MHA, MHA must verify that the person meets the definition of a person

with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, MHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- MHA must request only information that is necessary to evaluate the disability-related need for the accommodation. MHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that MHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, MHA will dispose of it. In place of the information, MHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

MHA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on MHA, or fundamentally alter the nature of MHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of MHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, MHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that MHA may verify the need for the requested accommodation.

MHA Policy

After a request for an accommodation is presented, MHA will respond, in writing, within 30 business days.

If MHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal MHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If MHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of MHA's operations), MHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If MHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, MHA will notify the family, in writing, of its determination within 30 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal MHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require MHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to MHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, MHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

MHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with MHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at meetings.

2-II.G. PHYSICAL ACCESSIBILITY

MHA must comply with a variety of regulations pertaining to physical accessibility, including the

following.

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

MHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern MHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of MHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements. Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

MHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with MHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, MHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to MHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, MHA must make the accommodation [24 CFR 966.7].

In addition, MHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register.*

MHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, MHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to MHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on MHA.

MHA Policy

MHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, MHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by MHA. MHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, MHA will not rely on the minor to serve as the interpreter.

MHA will analyze the various kinds of contacts it has with the public, to assess language needs

and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, MHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, MHA will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.

MHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible, MHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, MHA will encourage the use of qualified community volunteers.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by MHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

MHA Policy

In order to comply with written-translation obligations, MHA will take the following steps:

In determining whether it is feasible to translate documents into other languages, MHA will consider the following factors:

Estimated cost to MHA per client of translation of English written documents into the other language.

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

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, MHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If MHA determines that it is not necessary to develop a written implementation plan, the absence

of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to MHA's public housing program and services.

MHA Policy

If it is determined that MHA serves very few LEP persons, and MHA has very limited resources, MHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If MHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3, 25.104, and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as MHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

MHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by MHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and MHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to MHA's collection and use of family information as provided for in MHA-provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- MHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or MHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and MHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause MHA to deny admission as well as the asset limitation for public housing.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and explains HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/2012, Notice PIH 2014-20, Notice PIH 2023-27, and FR Notice 2/14/23]

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* is defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family.

Gender identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

MHA has the discretion to determine if any other group of persons qualifies as a family.

MHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family. A dependent not by birth that resides with the family will be included with the following information. MHA prefers court documentation to support the addition of the dependent, however, MHA will consider a notarized statement along with supporting documentation such as school records, social security, public assistance, or other supporting documentation.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

A household consisting exclusively of one or more full-time college students does qualify as a family.

Household

Household is a broader term that includes additional people who, with MHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

Except under the following conditions, the MHA has discretion to determine which member of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the MHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family, the MHA is bound by the court's determination of which family members continue to receive assistance.

  MHA Policy

  When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

  If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

  If a court determines the disposition of property between members of an applicant or resident family, MHA will abide by the court's determination.

  In the absence of a judicial decision or an agreement among the original family members, MHA will determine which family retains their placement on the waiting list, or will continue in occupancy taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

MHA Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

MHA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

MHA Policy

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

MHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA will make a determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/2012]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/2012]

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, MHA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the MHA's services.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disability allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent MHA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, and in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near MHA premises [24 CFR 966.4(f)].

MHA Policy

A resident family should notify MHA when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted (including involuntary terminations) or who owe MHA money are not permitted as overnight guests.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes a violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

A f*oster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

MHA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

MHA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

MHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information

becomes available to MHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

MHA Policy

If a child has been placed in foster care, MHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

MHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member. Documentation of employment must be provided for the absent family member.

Individuals Confined for Medical Reasons

MHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, MHA will request verification from a responsible medical professional every 60 days and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Individuals Incarcerated

MHA Policy

If the Head of Household is incarcerated for more than 30 consecutive days, he/she will be considered permanently absent. MHA will consider the unit abandoned and will initiate court action to take possession of the unit. Family members, which could include spouse, co-head, and any adult members of the household, of the household will be considered permanently absent and shall be deleted from the lease if he/she is incarcerated for 3 consecutive months.

Return of Permanently Absent Family Members

MHA Policy

The family must request MHA approval for the return of any adult family members that MHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

MHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

MHA Policy

A family's request for a live-in aide may be made either orally or in writing. MHA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker

unless the disability-related need is apparent or known to MHA. For continued approval, the family may be required to submit a new, written request – subject to MHA verification – at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. MHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

> The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program; or
>
> The person has a history of drug-related criminal activity or violent criminal activity; or
>
> The person currently owes rent or other amounts to MHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act; or
>
> The person fails MHA's suitability requirements, including without limitation, criminal and EIV background checks, or is an evicted former tenant (includes involuntary terminations).

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, MHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, the annual income of an applicant must be within the *low-income* limit. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted from MHA's waiting list to the public housing program during a PHA fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to MHA's housing choice voucher program during a MHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against MHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the MHA fiscal year
- Ten percent of waiting list admission to MHA's housing choice voucher program during the MHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with MHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit MHA to request additional documentation of their status, such as a passport.

MHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless MHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with MHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. MHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

MHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by MHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

MHA Policy

MHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When MHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

Grievance hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family MHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, MHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

MHA Policy

MHA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2028-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

MHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230 and 24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy

Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

MHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow MHA to obtain information that MHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

Upon the PHA's HOTMA 102/104 compliance date, the following on revocation of consent is added:

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)].

MHA Policy

MHA has established a policy that the family's revocation of consent to allow MHA to access records from financial institutions will result in denial of admission.

3-II.E. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

MHA Policy

MHA will contact the other PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. MHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, MHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

MHA Policy

MHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

MHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, MHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

EIV Income Report

For each new admission, the PHA is required to review income information to EIV to confirm and validate family reported income within 120 days after the move-in information is transmitted to HUD. The PHA must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

In addition, HUD requires or permits MHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The MHA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault or stalking [24 CFR 5.2005(b)].

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately

distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault or stalking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

MHA is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if MHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that MHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, MHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires MHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require MHA to admit an otherwise-eligible family if the household member has completed a MHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  MHA Policy

  MHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past five (5) years for drug-related criminal activity, if MHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program, or the person who committed the crime is no longer living in the household.

- MHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

Currently engaged in is defined as any use of illegal drugs during the previous six months.

- MHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  MHA Policy

  In determining reasonable cause, MHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. MHA will also consider evidence from treatment providers or community-based organizations providing services to household member.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

  If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied assistance.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

If any household member meets any of the following conditions, the family will be denied assistance:

- Any household member is subject to a lifetime registration requirement under a State sex offender registration program;
- Any household member is subject to a mandatory registration requirement of any length under a State sex offender registration program; or
- Any household member has been convicted of any criminal sex offense.

Upon the PHA's HOTMA 102/104 compliance date, the following section on the asset limitation is added. The asset limitation does not apply until the PHA's HOTMA compliance date.

3-III.C. RESTRICTIONS ON ASSISTANCE BASED

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables
- $100,000 for 2024, $103,200 for 2025

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The PHA does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

  MHA Policy

  MHA defines *not sufficient for the size of the family* as being overcrowded based on the MHA's occupancy standards in Chapter 5.

  Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

  MHA Policy

  In general, MHA defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. MHA will

consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require MHA to deny admission for the reasons discussed in this section.

Criminal Activity [24 CFR 960.203 (b) and (c)]

MHA is responsible for screening family behavior and suitability for tenancy. In doing so, MHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

MHA Policy

If any adult household member has been convicted for criminal activity during the time period starting 6 months prior to the application date for housing to the present.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied admission.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as 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 [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of MHA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to:

Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years or any record of a felony in the last 10 years.

A record or records of arrest will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, MHA will consider the factors discussed in Section 3-III.F and 3-III. G, and MHA will also consider positive information when determining reasonable cause. Upon consideration of such factors, MHA may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes MHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III. F, the MHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault or stalking.

MHA Policy

MHA will deny admission to an applicant family if MHA determines that the family:

Has a record of unsuitable past performance in meeting financial obligations, including rent within the past five years.

Has a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants.

Has a record of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances).

Has an unsuitable housing record as a past tenant with MHA.

Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program.

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

Owes rent or other amounts to a previous landlord or utility company, unless the family repays the full amount of the debt prior to being approved for admission. A repayment agreement or any other promise to pay the debt shall not be considered "full payment" for purposes of this provision.

Owes rent or other amounts to any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

Has engaged in or threatened violent or abusive behavior toward MHA personnel.

Abusive or violent behavior towards MHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, MHA will consider the factors discussed in Section 3-III.E and 3-III.F. Upon consideration of such factors, MHA may, on a case-by-case basis, decide not to deny admission.

MHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.E. SCREENING

Screening for Eligibility

MHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists MHA in complying with HUD requirements and MHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records MHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

MHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

MHA Policy

MHA will perform criminal background checks through local law enforcement for all adult household members. Applicants must provide a complete list of all states in which any household member has resided for the purposes of screening out lifetime registered sex offenders. If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, MHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

MHA will submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be

a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

MHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

MHA Policy

MHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

Additionally, MHA must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If MHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, MHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, MHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform MHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after MHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by MHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If MHA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

MHA Policy

MHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when MHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

MHA is responsible for the screening and selection of families to occupy public housing units. MHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

MHA will consider the family's history with respect to the following factors:

Payment of rent and utilities

Caring for a unit and premises

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

Criminal activity that is a threat to the health, safety, or property of others

Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

In order to determine the suitability of applicants MHA will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, and whether PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Utility company references coving the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name, (use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history MHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide MHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. If previous landlords do not respond to requests from MHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

If previous landlords or the utility company do not respond to requests from MHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained

about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record or records of arrest will not be used as the basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. Home visits may be used to determine the applicant's ability to care for the unit.

3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

MHA Policy

MHA will use the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes MHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event MHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, MHA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

MHA Policy

MHA will consider the following facts and circumstances when making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, MHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. MHA may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicated a demonstrable risk to safety and/or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

MHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

Should MHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, MHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, MHA must deny admission to the family [Notice PIH 2012-28]

For other criminal activity, MHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i).

MHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon MHA request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, MHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

MHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, MHA will determine whether the behavior is related to the disability. If so, upon the family's request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

The Violence against Women Reauthorization Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of VAWA rights and the form HUD-5382 at the time the applicant is denied.

MHA Policy

MHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under MHA's policies.

While MHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform MHA that their status as a victim is directly related to the grounds for the denial. MHA will request that the applicant provide enough information to MHA to allow the MHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

If MHA makes a determination to deny admission to an applicant family, MHA will include in its notice of denial:

A statement of the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP

A notice of VAWA rights

A copy of the form HUD-5382

A request that an applicant wishing to claim this protection submit to MHA documentation meeting the specifications below with her or his request for an informal hearing within 14 business days (see section 14-I.B)

Documentation

Victim Documentation [24 CFR 5.2007]

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, MHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

MHA Policy

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

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

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

3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

MHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If MHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before MHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

MHA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, MHA will notify the family in writing of the proposed denial and

provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute the information within that 10 day period, MHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in Section 3-III.F.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:

  (A) IN GENERAL – The term developmental disability means a severe, chronic disability of an individual which:

  - Is attributable to a mental or physical impairment or combination of mental and physical impairments
  - Is manifested before the person attains age twenty-two
  - Is likely to continue indefinitely
  - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency
  - Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

  (B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) or subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a

nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides MHA with the information needed to determine the family's eligibility. HUD requires MHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, MHA must select families from the waiting list in accordance with HUD requirements and MHA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

MHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or MHA to receive preferential treatment.

HUD regulations require that MHA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p.13]. Adherence to the selection policies described in this chapter ensures that MHA will comply with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and MHA policies for accepting applications, managing the waiting list and selecting families from the waiting list. MHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise MHA's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how MHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how MHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process MHA will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide MHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that MHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide MHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes MHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits MHA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by MHA. However, MHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of MHA's application [Notice 2009-36].

MHA Policy

A two-step process will be used. Under the two-step application process, MHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the preliminary waiting list. The family will be required to provide the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from MHA's website or from MHA's office during normal business hours. MHA will also offer the option to schedule an appointment or drop off applications during early morning, evening, or weekend hours to accommodate applicants who may be unable to appear during regular business hours due to work obligations, inability to obtain child care or transportation, or other hardship reasons.

Completed applications must be returned to MHA by mail, by fax, or submitted in person during hours determined by the MHA for accepting applications. Applications must be filled out completely in order to be accepted by MHA for processing. If an application is incomplete, MHA will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

MHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard MHA application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

MHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible or MHA must provide an alternate approach that provides equal access to the program. Chapter 2 provides a full discussion of MHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

MHA is required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on MHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

MHA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless MHA determines the family to be ineligible. Where the family is determined to be ineligible, MHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

MHA Policy

If MHA determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, MHA will send written notification of the ineligibility determination within 10 business days of receipt of the completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

MHA Policy

MHA will inform applicants of their preliminary eligibility determination within 10 business days of receiving a completed application, and may be by means of a written notification to minimize telephone calls and confusion for applicants.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, MHA will determine eligibility and suitability for admission to the program.

Applicants will be placed on the waiting list according to the date and time their complete application is received by MHA.

MHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to MHA standards and local codes). Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

MHA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how MHA may structure its waiting list and how families must be treated if they apply for public housing at a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

MHA's public housing waiting list must be organized in such a manner to allow MHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

MHA Policy

The waiting list will contain the following information for each applicant listed:

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirement, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

The specific site(s) selected (only if MHA offers site-based waiting lists)

MHA may adopt one community-wide waiting list or site-based waiting lists. MHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

MHA Policy

MHA will maintain one single community-wide waiting list for its developments. Within the list, MHA will designate subparts to easily identify who should be offered the next available unit (i.e. mixed populations, general occupancy, unit size, and accessible units).

MHA may adopt site-based waiting lists.

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that MHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

MHA Policy

MHA will not merge the public housing waiting list with the waiting list for any other program MHA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

MHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. MHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

MHA Policy

MHA will announce by public notice the closing of the waiting list by notice on its website. If the list remains open to certain categories of families, this information will be contained in the notice. The notice will be published at least 10 business days prior to MHA closing the list.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. MHA should publish a notice announcing the opening of the waiting list on its website, in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. MHA should specify who may apply, and where and when applications will be received.

MHA Policy

MHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will inform applicants of the date, time, method, and place applications can be obtained and submitted, how blank applications may be obtained (e.g., from what addresses, community sites, and websites), all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email), a point of contact who can answer questions, any limitations on who may apply, and any other information the applicant may need to successfully submit the application. MHA will describe its prioritization system or whether it uses a lottery and will clearly state that this system will be used to place applicants on the waiting list.

To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area, MHA will distribute public notices to local

community-based organizations, such as social service agencies and religious institutions; distribute the notice online through MHA's website or social media platforms and other online platforms for local housing news; and may make use of any local newspapers of general circulation, minority media, and other suitable means.

MHA will give public notice by publishing the relevant information using the following media outlets: Quad Cities Times newspaper, The Dispatch/Rock Island Argus newspaper.

4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

MHA should conduct outreach as necessary to ensure that MHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that MHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires MHA to admit a specified percentage of extremely low income families, MHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

MHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

MHA outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

MHA Policy

MHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MHA's jurisdiction. Targeted outreach efforts will be undertaken as needed if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform MHA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires MHA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to MHA's request for information or updates because of the family member's disability, MHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

MHA Policy

The waiting list will be updated at least annually to ensure that all applicant information is current and timely.

To update the waiting list, MHA will send an update request via first class mail or email to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. As part of the initial pre-application or application, MHA will ask the family for their preferred methods of communication, which may include mail, phone, text message, email, or contact through a representative or service provider.

This update request will be sent to the last address or email that MHA has on record for the family as well as any additional contact methods identified by the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by MHA not later than 30 calendar days from the date of MHA letter.

If the family fails to respond within 30 calendar days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 30 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, MHA will contact an unresponsive applicant through all means available, which

may include via mail, phone, email, and text message. MHA will give that family a reasonable period of time to respond with their interest so as to not inadvertently remove an applicant who remains interested but may have moved, changed their contact information, or otherwise are difficult to reach. No informal hearing will be offered in such cases. Such failures to act on the part of the applicant prevent MHA from making an eligibility determination; therefore no informal hearing is required.

If a family is removed from the waiting list for failure to respond, MHA may reinstate the family if the lack of response was due to MHA error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, or stalking, including an adverse factor resulting from such abuse.

Removal from the Waiting List

MHA Policy

MHA will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required.

If MHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because MHA has determined the family is not eligible for admission, a notice will be sent through 1st class mail to the family's address of record. The notice will state the reason(s) the family was removed from the waiting list and will inform the family how to request an informal hearing regarding MHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

MHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. MHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. MHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by MHA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

MHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to MHA's selection policies [24 CFR 960.206(e)(2)]. MHA's policies must be posted any place where MHA receives applications. MHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. MHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

MHA Policy

When an applicant or resident family requests a copy of MHA's tenant selection policies, MHA will provide copies to them free of charge.

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that MHA will use.

Local Preferences [24 CFR 960.206]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits MHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with MHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

MHA Policy

The Moline Housing Authority has no local preferences. MHA will select families based on the date and time of application only.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during MHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30% of the area median income, whichever number is higher [Federal Register notice 06/25/2014]. To ensure this requirement is met, MHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to MHA's HCV program during a PHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against MHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during MHA fiscal year; (2) ten percent of waiting list admissions to MHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

MHA Policy

MHA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or MHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. MHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. MHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, MHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. MHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

MHA may designate projects or portions of a public housing project specifically for elderly or disabled families. MHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, MHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, MHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, MHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

MHA Policy

MHA does not have designated housing.

Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

MHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of MHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

MHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, MHA must comply with the following steps:

Step 1. MHA must determine the average income of all families residing in all MHA's covered developments. MHA may use the median income, instead of average income, provided that MHA includes a written explanation in its annual plan justifying the use of median income.

MHA Policy

MHA will determine the average income of all families in all covered developments on an annual basis.

Step 2. MHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, MHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

MHA Policy

MHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. MHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low-income family (federal poverty level or 30percent of median income, whichever number is higher).

Step 4. MHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, MHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances MHA's deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by MHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and MHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under MHA's deconcentration policy. MHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under MHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, MHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

MHA Policy

For developments outside the EIR MHA will take the following actions to provide for deconcentration of poverty and income mixing:

MHA will strive to create mixed-income communities and lessen the concentration of very-low income families within the Housing Authority's public housing developments through admissions policies designed to bring higher income tenants into lower income

developments and lower income tenants into higher income developments. This policy shall not be construed to impose or require any specific income or racial quotas for any public housing development owned by MHA.

Order of Selection [24 CFR 960.206(e)]

MHA system of preferences may select families either according to the date and time of application or by a random selection process.

MHA Policy

Families will be selected from the waiting list based on date and time their pre-application was received. When selecting applicants from the waiting list MHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. MHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and MHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, MHA must notify the family.

[24 CFR 960.208]

MHA Policy

MHA will notify the family by first class mail or email when it is selected from the waiting list, and will also attempt notification using the applicant's contact information contained in the application.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to MHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the

applicant prevents MHA from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that MHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the MHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of 90 days. [Notice PIH 2012-10].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

MHA Policy

Families selected from the waiting list are required to participate in an eligibility interview in the MHA management office.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to MHA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. The additional forms can include an updated criminal background check and an updated landlord reference check if applicable. If any materials are missing, MHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, MHA will provide translation services as requested in accordance with MHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact MHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, MHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without MHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents MHA from making an eligibility determination, therefore MHA will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

MHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including MHA suitability standards, MHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

MHA Policy

MHA will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

MHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

MHA Policy

If MHA determines that the family is ineligible, MHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

If MHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity of 10 business days for the applicant to dispute the accuracy and relevance of the information in writing before MHA can move to deny the application. See Section 3-III.F. for MHA's policy regarding such circumstances.

Upon making an eligibility determination, MHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with

the Violence against Women Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility; or (2) when a family is notified of its ineligibility.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

MHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. MHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise MHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains MHA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains MHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by MHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors MHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, MHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although MHA does determine the size of unit the family qualifies for under the occupancy standards, MHA does not determine who shares a bedroom/sleeping room.

MHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

MHA Policy

MHA will use the same occupancy standards for each of its developments.

MHA's occupancy standards are as follows:

MHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses, domestic partners, and children under age 5) will not be required to share a bedroom.

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

Foster children will be included in determining unit size. The family may add foster children to the household as long as it does not overcrowd the unit based on the MHA's occupancy standards.

Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

An unborn child will not be counted as a person in determining unit size.

MHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

MHA Policy

MHA will consider granting exceptions to the occupancy standards at the family's request if MHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests MHA will consider the size and configuration of the unit. In no case will MHA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size.

To prevent vacancies, MHA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

MHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing, which may include email.

In the case of a request for exception as a reasonable accommodation, MHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, MHA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

MHA will notify the family of its decision within 10 business days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

MHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, MHA must offer the dwelling unit to an applicant in the appropriate offer sequence. MHA will offer the unit until it is accepted. This section describes MHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes MHA's policies for offering units with accessibility features.

MHA Policy

MHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

MHA Policy

MHA has adopted the following plan for offering units to applicants. Under this plan, MHA will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. The number of unit offers will be based on the distribution of vacancies. MHA has adopted a "one offer plan" for offering units to applicants. Under this plan the first qualified applicant in sequence on the waiting list will be made one offer of a unit of the appropriate size.

One (1) location: The applicant will be offered a suitable unit. If the offer is rejected without good cause, the applicant's name will be removed from the waiting list and MHA will send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until MHA opens the waiting list.

If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer. The time to accept or refuse an offer may be extended by the Executive Director if compelling mitigating circumstances are presented.

Offers made by telephone will be confirmed by letter or email.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

MHA Policy

Applicants may refuse to accept a unit offer for *"good cause." Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the MHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to MHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; or risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the

waiting list until the family receives an offer for which they do not have good cause to refuse.

MHA will require documentation of good cause for unit refusals.

Unit Refusal Without Good Cause

MHA Policy

When an applicant rejects a unit offer without good cause, MHA will remove the applicant's name from the waiting list and send notice to the family of such removal.

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until MHA opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant MHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under MHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, MHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

MHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, MHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, MHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

Chapter 6.A.

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

This chapter is applicable prior to the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 6.B. of the model policy.

The program regulations in the current Code of Federal Regulations (CFRs) were updated for HOTMA on January 1, 2024. As a result, pre-HOTMA regulations from 2023 are no longer available on the electronic CFRs. However, since full HOTMA implementation is still pending, the pre-HOTMA regulations continue to apply to some elements of the program, and this chapter makes references to both pre-HOTMA and HOTMA regulations where applicable. Where HOTMA regulations apply, citations in this chapter have been provided indicating that current HOTMA CFRs are applicable. For all other citations, the pre-HOTMA CFRs apply. The federal government archives previous versions of the CFRs, and PHAs may access them here: **https://www.govinfo.gov/app/collection/cfr/2023/title24**.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. MHA will use the policies and methods described in this chapter to ensure that only income eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and MHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and MHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require MHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and MHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member.

The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

MHA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

MHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to MHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

MHA Policy

If a child has been placed in foster care, MHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

MHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member**.**

Individuals Confined for Medical Reasons

MHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, MHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Joint Custody of Children

MHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

MHA Policy

The approval of a caretaker is at MHA's discretion and subject to MHA's screening criteria. If neither a parent nor a designated guardian remains in a household, MHA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that

would confirm that the caretaker's role is temporary. In such cases MHA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Prior to a caretaker being added as a family member, he/she must meet eligibility criteria.

6-I.C. ANTICIPATING ANNUAL INCOME

MHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

MHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes MHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- MHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

MHA is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows MHA to use tenant-provided documents to project income one EIV data has been received in such cases where the family does not dispute the EIV employer data and where MHA does not determine it is necessary to obtain additional third-party data.

MHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, MHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, MHA will make every effort to obtain current and consecutive pay stubs for the last 6 pay periods.

MHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

IF EIV or other UIV data is not available

If the family disputes the accuracy of the EIV employer data, and/or

If MHA determines additional information is needed.

In such cases, MHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how MHA annualized projected income.

When MHA cannot readily anticipate income based upon current circumstances (e.g. in the case of seasonal employment, unstable working hours, or suspected fraud), MHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to MHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If MHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the reexamination. In such a case MHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases MHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if MHA's policy on reexaminations does not require interim reexaminations for other types of changes.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHA's are not to use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

MHA Policy

For persons who regularly receive bonuses or commissions, MHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, MHA will use the prior year amounts. In either case the family may provide, and MHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet

received any bonuses or commissions, MHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings [24 CFR 5.609(c)(1)]

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c) (11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide.

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c) (5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed $200 per individual per month) received by a resident for performing a service for MHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of MHA's governing board. No resident may receive more than one such stipend during the same period of time.

State and Local Employment Training Program

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

MHA Policy

MHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

MHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, MHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with MHA's interim reporting requirements (see Chapter 11).

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

MHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance. The earned income disallowance is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16]

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, MHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

During the second 12-month exclusion period, MHA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24 month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

Individual Savings Accounts [24 CFR 960.255(d)]

MHA Policy

MHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

The following rules pertaining to ISAs do not apply to this public housing program.

A qualified family paying income-based rent may choose an ISA instead of being given the EID. MHA must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and MHA will deposit the difference between the higher rent and the EID rent in the savings account.

Amounts deposited to ISAs may only be withdrawn for the following reasons:

- Because the family is purchasing a home
- To pay education costs of family members
- Because the family is moving out of public or assisted housing
- To pay any other expenses MHA authorizes to promote economic self-sufficiency

MHA is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. MHA may not charge the family a fee for maintaining the account.

At least once each year MHA must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.

When applicable, MHA will provide the family with a statement of the balance in their account, including any interest earned, annually and upon request when the family makes withdrawals from the account.

If the family moves out of public housing, MHA must return the balance in the family's ISA, less any amounts the family owes MHA.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

> To determine business expenses that may be deducted from gross income, MHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit MHA to deduct from gross income expenses for business expansion.

> *Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit MHA to deduct from gross income the amortization of capital indebtedness.

> *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require MHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, MHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that MHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, MHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

MHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes MHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) MHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, MHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

MHA Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to MHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires MHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

  Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b) (3), Notice PIH 2012-29}]

When net family assets are $5,000 or less, MHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, MHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by MHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- MHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

  MHA Policy

  MHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

  MHA will review the passbook rate annually, in December of each year. The rate will not be adjusted unless MHA's current rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for MHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

MHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, MHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, MHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MHA will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require MHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

MHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

MHA Policy

MHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

MHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

MHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. MHA may verify the value of the assets disposed of if other information available to MHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

MHA Policy

In determining the value of a checking account, MHA will use the current balance.

In determining the value of a savings account, MHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, MHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

MHA Policy

In determining the market value of an investment account, MHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), MHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

MHA Policy

In determining the equity, MHA will determine market value by reviewing the local assessment roll of the owner's most recent property tax liability bill.

MHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, MHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

MHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash.

[Notice PIH 2012-3]

MHA Policy

For the purposes of calculating expenses to convert to cash for real property, MHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for

the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

> In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless MHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, MHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

> In determining the value of personal property held as an investment, MHA will use the family's estimate of the value. MHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
>
> Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

MHA Policy

When a delayed-start payment is received and reported during the period in which MHA is processing an annual reexamination, MHA will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with MHA.

See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

Treatment of Overpayment Deductions from Social Security Benefits

MHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period,

MHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Applying SSA COLA to Current Annual and Interim Reexaminations

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year [Notice PIH 2018-24].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1].

  MHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].

- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)]

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

MHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, MHA must include in annual income "imputed" welfare income. MHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon MHA's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

Alimony and Child Support

MHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

> MHA will count court-awarded amounts for alimony and child support unless MHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].
>
> Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

MHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

> Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets

provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by MHA. For contributions that may vary from month to month (e.g., utility payments), MHA will include an average amount based upon past history.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 05/20/14 that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]

  Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included **in** annual income.
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 12/14/12]. HUD publishes an updated list of these exclusions periodically. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966 including WIC.
  (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931).)

(h) Deferred disability benefits from the Department of Veterans Affairs whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(j) Payments, funds, or disbursements authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al v. Ken Salazar et al*

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* -product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833 © to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the

exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437 a(b)(3)(E)(Pub. L. 109-249

(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(w)Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (MHA) must deduct the following amounts from annual income:
>
> (1) $480 for each dependent;
>
> (2) $400 for any elderly family or disabled family;
>
> (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
>
> (i) Unreimbursed medical expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
>
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

Generally, MHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), MHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. MHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, noncosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, MHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, MHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When MHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Animal Expenses

Expenses for Service and Assistance animals may be deducted if they are necessary or essential for the care of the animal.

MHA Policy

MHA uses only the essential costs for the care of a service or assistance animal. "Essential costs" are defined as food, medicine and veterinarian expenses only.

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, MHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

MHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, MHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and MHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, MHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education 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."

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, MHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by MHA.

Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a

full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

MHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, MHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the tenant family. MHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, MHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, MHA will use the schedule of child care costs from the local welfare agency. Families may present, and MHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If MHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

MHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by MHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by MHA

MHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of MHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

MHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to MHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

MHA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

MHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits MHA to pay the reimbursement to the family or directly to the utility provider.

Residents with individualized utility meter(s) shall be required to pay their own utility bills as they become due in accordance with Code of Federal Regulations. Affected residents/units shall receive monthly utility allowance which shall be dedicated from the rent accordingly. The Housing Authority shall develop a utility allowance schedule for each unit size respectively. These changes will be subject to implementation in 2014.

MHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. MHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. MHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

MHA will issue all utility reimbursements monthly.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If MHA establishes a minimum rent greater than zero, MHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If MHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by MHA.

MHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, MHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

MHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

MHA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

MHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP.

The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume MHA has established a minimum rent of $50.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

MHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

MHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If MHA determines there is no financial hardship, MHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon MHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA Policy

MHA will require the family to repay the suspended amount within 30 calendar days of MHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If MHA determines that a qualifying financial hardship is temporary, MHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay MHA the amounts suspended. HUD requires MHA to offer a reasonable repayment agreement, on terms and conditions established by MHA. MHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon MHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA Policy

MHA will enter into a repayment agreement in accordance with MHA's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If MHA determines that the financial hardship is long-term, MHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

MHA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, MHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

MHA Policy

The family must request the higher allowance and provide MHA with information about the amount of additional allowance required.

MHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, MHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or MHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. MHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide MHA with information about the amount of additional allowance required.

At its discretion, MHA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or MHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

MHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in MHA's utility allowance schedule [24 CFR 960.253(c)(3)].

MHA Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MHA must prorate the assistance provided to a mixed family. MHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, MHA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, MHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. MHA must document that flat rents were offered to families under the methods used to determine flat rents for MHA.

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

MHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

MHA must provide sufficient information for families to make an informed choice. This information must include MHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year MHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If MHA determines that a financial hardship exists, MHA must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by MHA that a financial hardship exists, MHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request, except as provided in Chapter 9-III.D.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by MHA to be appropriate

MHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

[1] Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes:
(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to

an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) 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 (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b) (9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

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

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the MHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the MHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amount

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 5.617 Self-sufficiency incentive–Disallowance of increase in annual income.

(a) *Definitions.* The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

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

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

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(b) *Disallowance of increase in annual income—*

(1) *Initial twelve month exclusion*. During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in § 5.609 of this title) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

(2)*Phase-in of rent increase.* Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24 month period starting from the initial exclusion under paragraph (b)(1) of this section.

(4) Effect of changes on currently participating families. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

(c) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

(d) *Individual Savings Accounts.* As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The MHA must advised the family that the savings account option is available;

(2) At the option of the family, the MHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the MHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the MHA for the purpose of promoting the economic self-sufficiency of residents of public housing;

(4) The MHA must maintain the account in an interest bearing investment and must credit the family with the net interest income, and the MHA may not charge a fee for maintaining the account;

(5) At least annually the MHA must provide the family with a report on the status of the account; and

(6) If the family moves out of public housing, the MHA shall pay the tenant any balance in the account, minus any amounts owed to the MHA.

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the MHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the MHA, the welfare agency will inform the MHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the MHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. the MHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the MHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the MHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) the MHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of MHA decision.*

(1) Public housing. If a public housing tenant claims that the MHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the MHA denies the family's request to modify such amount, the MHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the MHA determination of the amount of imputed welfare income. the MHA notice shall also state that if the tenant does not agree with the MHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the MHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the MHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the MHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if T the MHA denies the family's request to modify such amount, the MHA shall give the family written notice of such denial, with a brief explanation of the basis for the MHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the MHA determination, the family may request an informal hearing on the determination under the MHA hearing procedure.

(e) *MHA relation with welfare agency.*

(1) The MHA must ask welfare agencies to inform the MHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the MHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The MHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the MHA. However, the MHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. the MHA shall be entitled to rely on the welfare agency notice to the MHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 6.B.

INCOME AND RENT DETERMINATIONS UNDER HOTMA 102/104

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 6.A.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. MHA will use the policies and methods described in this chapter to ensure that only income eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and MHA policies related to these topics in four parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and MHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established HUD regulations require MHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and MHA policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rent.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW [24 DFR 5.609]

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

Annual Income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 DFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income (other than those specifically excluded in 24 DFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-publised threshold amount (adjusted annually and published in HUD's Inflation-Adjusted Values table and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes

of determining annual income Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member.

The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].
Minors	Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)]. All other sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)]. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence .

MHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

MHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to MHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

MHA Policy

If a child has been placed in foster care, MHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head, Spouse, or Cohead

MHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member**.**

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations,* p. 12].

MHA Policy

MHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

MHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, MHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

MHA Policy

The approval of a caretaker is at MHA's discretion and subject to MHA's screening criteria. If neither a parent nor a designated guardian remains in a household, MHA will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases MHA will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Prior to a caretaker being added as a family member, he/she must meet eligibility criteria.

6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date.

Policies related to verifying income are found in Chapter 7.

MHA Policy

When MHA cannot readily anticipate income based upon current circumstances (e.g. in the case of temporary, sporadic or variable employment, seasonal employment, unstable working hours, or suspected fraud), MHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to MHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how MHA annualized projected income.

Known Changes in Income

If MHA verifies an upcoming increase or decrease in income, at admission or interim reexamination, annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $6/hour will begin to receive $6.25/hour in the eighth week after the effective date of the new or interim reexamination. In such a case MHA would calculate annual income as follows: ($6/hour × 40 hours × 7 weeks) + ($6.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases MHA will calculate annual income using current circumstances and then, should the change in income require MHA to conduct an interim reexamination, conduct an interim reexamination in accordance with MHA policy in Chapter 9.

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]

At annual reexamination, except where the PHA uses a streamlined income determination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry

[24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

MHA Policy

MHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, MHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, MHA will use the prior year amounts. In either case the family may provide, and MHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, MHA will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income.All other sources of unearned income, except those specifically excluded by regulation, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements,* p. 5].

Income of a Live-in Aide.

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c) (5)]. (See Eligibility chapter for a full discussion of live-in aides.)

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

MHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, MHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

MHA Policy

During the second 12-month exclusion period, MHA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24 month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts [24 CFR 960.255(d)]

The PHA may, but is not required to, establish a policy to offer a qualified family paying income-based rent an ISA instead of being given the EID.

MHA Policy

MHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]

Annual income includes "net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

MHA Policy

To determine business expenses that may be deducted from gross income, the MHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

Business Expansion

HUD regulations do not permit MHA to deduct from gross income expenses for business expansion.

MHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of

adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit MHA to deduct from gross income the amortization of capital indebtedness.

MHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require MHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

MHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000 to help a business get started, MHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

MHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is

any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA), which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
    - The Higher Education Tribal Grant
    - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
    - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

MHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, MHA will exclude the full amount of the assistance received under Title IV from the family's annual income. MHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, MHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). MHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. MHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly). Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

MHA Policy

The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reportsthis during the period in which MHA is processing an annual reexamination, MHA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time MHA is processing an annual reexamination, then MHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, MHA will conduct an interim in accordance with MHA policies in Chapter 9. If not, MHA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2023-27]

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive.

When the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, MHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

MHA Policy

MHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreementt unless the family certifies and MHA verifies that the payments are not being made.

In order to verify that payments are not being made, MHA will review child support payments over the last three months. If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income.

If payments are being made regularly, MHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, MHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, MHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If MHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If MHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

6-I.I. 6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

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

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly).

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

MHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, MHA must include in annual income "imputed" welfare income. MHA must request that the welfare agency provide the reason for the reduction of benefits and

the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

.

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the

control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount ($50,000 for 2024 and $51,600 for 2025 , then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

6-I. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b); FR Notice 1/31/2024]

Other exclusions contained in 24 CFR 5.609(b) and FR Notice 1/31/2024 that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)] However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].

- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)]
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

  MHA Policy

  MHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

  MHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

  In calculating the incremental difference, MHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

  End of participation in a training program must be reported in accordance with MHA's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)]
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)]

- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 202. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion applies to assets.

  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966 including WIC and reduced-price lunches.

  (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.

  - Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

  (d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506)

  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1))

  (g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which was reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).

  (h) Deferred disability benefits from the Department of Veterans Affairs whether received as a lump sum or in monthly prospective amounts

  (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6)

  (j) Payments, funds, or disbursements authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

  (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al v. Ken Salazar et al*

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408).

(m)Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* -product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion applies to assets.

(o) Payments received under 38 U.S.C. 1833 © to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion applies to assets.

(q) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion applies to assets.

(s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion applies to assets.

(t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327 (as amended)).

(u) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(v)Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).

(w) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4))

()

(x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(y) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

(z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

(aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(ab) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(ac) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

MHA Policy

MHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. MHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) MHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, MHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to MHA to show why the asset income determination does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations,* p. 24].

MHA Policy

MHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

MHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Family Declaration

MHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. MHA may verify the value of the assets disposed of if other information available to MHA does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

MHA Policy

In determining the value of non-necessary, non-financial personal property, MHA will use the family's estimate of the value. MHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not the HUD-published threshold amount
- , all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

MHA Policy

MHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, MHA will use the value of the account on the most recent investment report.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

MHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

    If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family are excluded from net family assets. The value of the trust in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).
- A revocable trust that is not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered $0.

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

MHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations,* p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables , without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

The PHA may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611*Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions
>
> (a) Mandatory deductions
>
> (1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
>
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
>
> (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
>
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed.s; and
>
> (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

MHA Policy

Generally, MHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), MHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, MHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. MHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, MHA will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations,* p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

An allowance of $524 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family(which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included. The PHA calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period..

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed."

Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies to IRS Publication 502. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

MHA Policy

MHA will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will MHA deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the PHA will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

MHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, MHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

MHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, MHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When MHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [New PH OCC GB, *Income Determination,* p. 28].

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

MHA Policy

Expenses for Service and Assistance animals may be deducted if they are necessary or essential for the care of the animal. MHA uses only the essential costs for the care of a service or assistance animal. "Essential costs" are defined as food, medicine and veterinarian expenses only.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

MHA Policy

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, MHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

MHA Policy

MHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, MHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and MHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

MHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, MHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (age 12 and younger) (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for 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."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

MHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, MHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

MHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by MHA.

Furthering Education

MHA Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

MHA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

MHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

MHA Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, MHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Childcare Expenses

The type of care to be provided is determined by the tenant family. MHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

MHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, MHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child

with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

MHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, MHA will use the schedule of child care costs from the local welfare agency. Families may present, and MHA will consider, justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the date on which the PHA implements phased-in relief.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.

- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
    - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA must process another transaction (either an interim reexamination or non-interim transaction, as applicable) one year later to move the family to the next phase.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

MHA Policy

MHA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

MHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. MHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with MHA policies.

Examples of *circumstances* constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by MHA.

The family must provide third-party verification of the hardship with the request. If third-party *verification* is not available, MHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

MHA Policy

MHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If MHA denies the hardship exemption request, the MHA notice will also state that if the family does not agree with the MHA determination, the family may request a hearing.

If the family qualifies for an exemption, MHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

MHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. MHA will extend relief for an additional 90-days if the family demonstrates to MHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. MHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, MHA may terminate the hardship exemption if MHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the childcare deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

MHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. MHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. MHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, MHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30-days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

MHA Policy

MHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If MHA denies the hardship exemption request, the MHA notice will also state that if the family does not agree with the MHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, MHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

MHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. MHA will extend relief for an additional 90-days if the family demonstrates to MHA's satisfaction that the family continues to qualify for the hardship exemption. MHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, MHA may terminate the hardship exemption if MHA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If MHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

MHA Policy

MHA has opted not to use permissive deductions.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by MHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by MHA

MHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

MHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

MHA Policy

The minimum rent for this locality is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of MHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

MHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to MHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

MHA Policy

MHA chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

MHA Policy

MHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits MHA to pay the reimbursement to the family or directly to the utility provider.

MHA Policy

Residents with individualized utility meter(s) shall be required to pay their own utility bills as they become due in accordance with Code of Federal Regulations. Affected residents/units shall receive monthly utility allowance which shall be dedicated from the rent accordingly. MHA shall develop a utility allowance schedule for each unit size respectively.

MHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. MHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. MHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

MHA Policy

MHA will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If MHA establishes a minimum rent greater than zero, MHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If MHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

MHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

MHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

MHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by MHA.

MHA Policy

MHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, MHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

MHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

MHA Policy

MHA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP.

The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume MHA has established a minimum rent of $50.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$50 Minimum rent	$50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

MHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

MHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA Policy

MHA will require the family to repay the suspended amount within 30 calendar days of MHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If a PHA determines that a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

MHA Policy

MHA will enter into a repayment agreement in accordance with MHA's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

MHA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-IVII.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, MHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

MHA Policy

The family must request the higher allowance and provide MHA with information about the amount of additional allowance required.

MHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, MHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or MHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. MHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide MHA with information about the amount of additional allowance required.

At its discretion, MHA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or MHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

MHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in MHA's utility allowance schedule [24 CFR 960.253(c)(3)].

MHA Policy

Between annual reviews of utility allowances, MHA will only revise its utility allowances due to a rate change, when required to by the regulation.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. MHA must prorate the assistance provided to a mixed family. MHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, MHA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

MHA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, MHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. MHA must document that flat rents were offered to families under the methods used to determine flat rents for MHA.

MHA Policy

The annual MHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

MHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If MHA determines that a financial hardship exists, MHA must immediately allow the family to switch from flat rent to the income-based rent.

MHA Policy

Upon determination by MHA that a financial hardship exists, MHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request, except as provided in Chapter 9-III.D.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by MHA to be appropriate

MHA Policy

MHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b)Annual income does not include the following:

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

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

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

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

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

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

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

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

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

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

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

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

(12)

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

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

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

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

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

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

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

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not the HUD-published threshold amount (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the MHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the MHA, the welfare agency will inform the MHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the MHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. the MHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the MHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction

(as specified in information provided to the MHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) the MHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of MHA decision.*

(1) Public housing. If a public housing tenant claims that the MHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the MHA denies the family's request to modify such amount, the MHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the MHA determination of the amount of imputed welfare income. the MHA notice shall also state that if the tenant does not agree with the MHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the MHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the MHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the MHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if T the MHA denies the family's request to modify such amount, the MHA shall give the family written notice of such denial, with a brief explanation of the basis for the MHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the MHA determination, the family may request an informal hearing on the determination under the MHA hearing procedure.

(e) *MHA relation with welfare agency.*

(1) The MHA must ask welfare agencies to inform the MHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the MHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The MHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the MHA. However, the MHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. the MHA shall be entitled to rely on the welfare agency notice to the MHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7.A.

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2018-18]

INTRODUCTION

Prior to the PHA's HOTMA compliance date, the PHA will follow policies as outlined in this chapter. Upon the PHA's HOTMA compliance date, the PHA will follow policies as outlined in Chapter 7.B.

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

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

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify the local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

MHA Policy

MHA will not accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income

MHA will not accept other programs' determinations of income for any new admission or interim reexamination.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The PHA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The PHA will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed $50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

PHA Policy

In accordance with PHA policies in Chapter 9, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

PHA Policy

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

PHA Policy

The PHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

PHA Policy

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

PHA Policy

The PHA will inform all applicants and residents of its use of the following UIV resources:

[Insert any additional UIV sources used by the PHA]

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

PHA Policy

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

PHA Policy

In general, the PHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

PHA Policy

Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

PHA Policy

In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total $50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

PHA Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

PHA Policy

The PHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

PHA Policy

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the PHA so requests.

Foster Children and Foster Adults

PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further their education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

PHA Policy

For family members claiming disability who receive disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to the PHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

PHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual’s declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

PHA Policy

The PHA offers a preference for working families, described in Section 4-III.B.

The PHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

PHA Policy

The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

PHA Policy

When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

PHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

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

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

PHA Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling $50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over $50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

PHA Policy

For families with net assets totaling $50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7-III.J. RETIREMENT ACCOUNTS

PHA Policy

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 9.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

PHA Policy

The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

PHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

PHA Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

PHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

PHA Policy

The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

Information to be Gathered

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 7.B.

VERIFICATION UNDER HOTMA 102/104

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 7.A. of the model policy.

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

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

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

MHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886within 10 business days of turning 18 years of age.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

MHA Policy

MHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with MHA policy.

In order for a family to revoke their consent, the family must provide written notice to MHA.

Within 10 business days of the date the family provides written notice, MHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, MHA will notify the local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

MHA Policy

MHA will not accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income

MHA will not accept other programs' determinations of income for any new admission or interim reexamination.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

MHA Policy

When MHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then MHA will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources

MHA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.

The PHA will document in the file how the determination that a source of income was fixed was made.

If the family's sources of fixed income have changed from the previous year, MHA will obtain third-party verification of any new sources of fixed income

MHA will document in the file how the determination that a source of income was fixed was made.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025);

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds the HUD-published threshold, as listed in HUD's Inflation-Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025 ;
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

HUD's Enterprise Income Verification (EIV) System

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

MHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, MHA will obtain an EIV Income Report for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. MHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When MHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

MHA Policy

In accordance with MHA policies in Chapter 9, MHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which MHA uses Safe Harbor income determinations to determine a family's annual income, MHA will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

MHA Policy

MHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

MHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, MHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When MHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

MHA Policy

MHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

MHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When MHA determines that discrepancies exist as a result of MHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

MHA Policy

MHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

MHA Policy

MHA will inform all applicants and residents of its use of the following UIV resources:

[Insert any additional UIV sources used by the PHA]

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

MHA Policy

At annual reexamination, if MHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, MHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

MHA will use an average of the last two quarters of income listed in EIV to determine income from employment. MHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of a particular family member's employment, MHA will permit the family to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, MHA will use written third-party verification from the source as outlined below

MHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. The PHA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding

official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

MHA Policy

In general, MHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

MHA will not use this method if MHA is able to use an income determination from a means-tested federal assistance program or if MHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by MHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

MHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If MHA determines that third-party documents provided by the family are not acceptable, MHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, MHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, MHA will require the family to provide the two most current, consecutive pay stubs. At MHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), MHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

MHA Policy

Typically, MHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, MHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

MHA Policy

In general, MHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, MHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if MHA chooses to obtain oral third-party verification, MHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets assets are less than or equal to the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025) and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined verifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

MHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to MHA.

MHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to MHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

MHA Policy

MHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

MHA Policy

MHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to MHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

MHA Policy

MHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

MHA Policy

MHA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

MHA Policy

MHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

MHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, MHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

MHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, MHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

MHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

MHA Policy

Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a marital relationship, MHA will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

MHA Policy

Certification by the head of household is normally sufficient verification. If MHA has reasonable doubts about a divorce or separation, MHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

MHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if MHA so requests.

Foster Children and Foster Adults

MHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

MHA Policy

MHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a childcare deduction to enable a family member to further their education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

MHA Policy

For family members claiming disability who receive disability payments from the SSA, MHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, MHA will request a current (dated within the appropriate benefit year) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, MHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, they will be required to provide the letter to MHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

MHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

MHA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless MHA receives information indicating that an individual’s declaration may not be accurate.

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

MHA Policy

MHA offers a preference for working families, described in Section 4-III.B.

MHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

MHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

MHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, MHA will follow documentation requirements outlined in Section 16-VII.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

MHA Policy

The following policies do not apply when MHA uses a Safe Harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

MHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

MHA Policy

When MHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

MHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

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

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the appropriate benefit year) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the appropriate benefit year) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

MHA Policy

Verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to MHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

MHA Policy

MHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, MHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025, the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed the HUD-published threshold, may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over the HUD-published threshold, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed the HUD-published threshold.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

MHA Policy

For families with net assets less than or equal to the HUD-published threshold listed in the current year's Inflation-Adjusted Values tables, MHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show the total amount of income expected from all assets. All family members 18 years of age and older must sign the family's declaration. MHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, MHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, MHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2); Notice PIH 2023-27]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3The PHA may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, MHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PHA must obtain third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

PHA Policy

MHA will accept self-certification from the family stating that the family does not have any present ownership in any real property. The certification must be signed by all family members 18 years of age and older. MHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, MHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, MHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. NET INCOME FROM RENTAL PROPERTY

MHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, MHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.H. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are are less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-published threshold.

7-III.I. RETIREMENT ACCOUNTS

MHA Policy

MHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.J. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

MHA Policy

MHA will accept the family's self-certification as verification of fully excluded income. MHA may request additional documentation if necessary to document the income source.

MHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.K. ZERO INCOME REVIEWS [Notice PIH 2023-27]

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)].

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

MHA Policy

MHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

MHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, MHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

MHA will only conduct interims in accordance with MHA policy in Chapter 9.

7-III.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii)].

MHA Policy

MHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, MHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If MHA is unable to obtain third-party written verification of the requested information, MHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

MHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

MHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, MHA will redact all personally identifiable information.

If MHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, MHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, MHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will MHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

MHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

MHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, MHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

MHA Policy

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, MHA will redact all personally identifiable information.

If MHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, MHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, MHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will MHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

MHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

MHA Policy

MHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

MHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

MHA Policy

The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

MHA Policy

Information to be Gathered

MHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible MHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases MHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to MHA any reports provided to the other agency.

In the event third-party verification is not available, MHA will provide the family with a form on which the family member must record job search efforts. MHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

MHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

MHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

MHA Policy

MHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

MHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

MHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

MHA Policy

The actual costs the family incurs will be compared with MHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, MHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between MHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require MHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, MHA may conduct additional inspections in accordance with MHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and MHA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes MHA's policies for inspecting dwelling units and notifying families of HUD REAC/NSPIRE inspections.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that MHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)] [24 CFR 966.4(a)(2)].

MHA must adopt smoke-free policies, which must be implemented no later than July 30, 2018. A model policy is attached as Exhibit 8-1.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as MHA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

8-I.B. LEASE ORIENTATION

MHA Policy

After unit acceptance but prior to occupancy, an MHA representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

Orientation Agenda

MHA Policy

When families attend the lease orientation, they will be provided with:

A copy of the lease

A copy of MHA's grievance procedure

A copy of the house rules

A copy of MHA's schedule of maintenance charges

A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

A copy of the form HUD-5380, VAWA Notice of Occupancy Rights

A copy of the form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

A copy of MHA's smoke free policy

A notice that includes the procedures for requesting relief and the MHA's criteria for granting requests for relief for excess utility surcharges

The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

Topics to be discussed and explained to all families include:

Applicable deposits and all other charges

Review and explanation of lease provisions

Unit maintenance requests and work orders

MHA's interim reporting requirements

Review and explanation of occupancy forms

Community service requirements

Family choice of rent

VAWA protections

Smoke-free policies

Copies of Documents

A family may request additional copies of their residency and lease documents in the possession of MHA at any time.

MHA Policy
A family will be allowed to copy any of their residency and lease documents in their resident file at a cost of $.25 per page, excluding any MHA confidential documents. All requests must be made during MHA business hours and at least 24 hours before the expected pick-up time. Large document copying requests may require more that 24 hours for MHA to process.

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and MHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by MHA (family members and any MHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

MHA Policy

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will

be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and MHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to MHA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and MHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The PHA may modify its lease from time to time. However, the PHA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

MHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

MHA Policy

When MHA proposes to modify or revise schedules of special charges or rules and regulations, MHA will post copies of the notice in the central office and in each project office, and will mail or email a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

.

Other Modifications

MHA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and MHA will be required to initial and date the change.

If a new household member is approved by MHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and MHA will be required to initial and date the change. If the new member of the household is an adult, they will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of MHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by MHA. MHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit, or used for tenant services or activities.

MHA Policy

Residents must pay a security deposit to MHA at the time of admission. The amount of the security deposit will be $250.00 and will be due prior to move-in.

MHA will hold the security deposit for the period the family occupies the unit. MHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, MHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

MHA will provide the resident with a written list of any charges against the security deposit within 30 business days of the move-out inspection. If the resident disagrees with the amount charged, MHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, MHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit. All charges will be due according to the MHA Repayment Procedures. If the tenant's security deposit at the time of transfer is not at $250.00 they must pay the difference to bring their security deposit up to the required $250.00.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by MHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and MHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

The lease must contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q).

MHA Policy

The tenant rent is due and payable at MHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, MHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment [24 CFR 966.4(q) and (r)]

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The lease must also contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q)]. The PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)]. See Chapter 13 for additional requirements for notices of lease termination.

MHA Policy

If the family fails to pay their rent by the fifth day of the month, and MHA has not agreed to accept payment at a later date, a 30-day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. MHA will not proceed with filing an eviction for nonpayment if the tenant pays the alleged amount of rent owed within the 30-day notification period.

In addition, if the resident fails to make payment by the end of the day on the fifth day of the month (4:30 p.m. CST), a late fee of $25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $25.00 will be charged to the family. The fee will be due and payable 14 days after billing. In addition to the $25.00 returned check fee, MHA will charge a $25.00 late fee.

Excess Utility Charges

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after MHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

MHA Policy

When applicable, families will be charged for excess utility usage according to MHA's current posted schedule. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

MHA may grant requests for relief from surcharges from excess utility consumption of MHA-furnished utilities as a reasonable accommodation where MHA deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, MHA will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. MHA will process such requests in accordance with Section 2-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the MHA representative with whom initial contact may be made by the resident) and MHA's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

MHA Policy

When applicable, families will be charged for maintenance and/or damages according to MHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, MHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II: INSPECTIONS

8-II.A. OVERVIEW

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR

5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in, at move-out The PHA may require additional inspections, in accordance with the PHA policy. This part contains the PHA policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair time lines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

8-II.B. PHA-CONDUCTED INSPECTIONS

The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Types of PHA-Conducted Inspections

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

MHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

MHA Policy

When applicable, MHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 business days of conducting the move-out inspection.

If the resident fails to attend the move out inspection they will forfeit their right to appeal the charges.

Self-Inspections [24 CFR 5.707]

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The PHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

MHA Policy

MHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) until NSPIRE standards are officially in place and authorized by HUD.

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed within an acceptable time frame

MHA Policy

Supervisory quality control inspections will be conducted in accordance with MHA's maintenance plan.

Special Inspections

MHA Policy

MHA staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

Other Inspections

MHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to MHA's maintenance plan.

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

MHA Policy

MHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular MHA annual self-inspections, the family will receive at least two (2) weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for MHA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Resident-Caused Damages

MHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease and grounds for a lease termination.

Housekeeping

MHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, MHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incident will result in lease termination.

Emergency Entries [24 CFR 966.4(j)(2)]

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of PHA-Conducted Inspections

MHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify MHA at least 24 hours prior to the scheduled inspection.

MHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. MHA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

MHA Policy

While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

Repairs

Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify MHA of the damage, and MHA must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, MHA must charge the family for the reasonable cost of repairs. MHA may also take lease enforcement action against the family.

If MHA cannot make repairs quickly, MHA must offer the family standard alternative accommodations. If MHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

Non-emergency Repairs

MHA Policy

MHA will correct deficiencies resulting in a non-emergency work order identified during a PHA conducted inspection within 15 business days of the inspection date. If MHA is unable to make repairs within that period due to circumstances beyond MHA's control (e.g. required parts or services are not available, weather conditions, etc.) MHA will notify the family of an estimated date of completion.

The family must allow MHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or

responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Resident-Caused Damages

MHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease and grounds for a lease termination.

Housekeeping

MHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, MHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incident will result in lease termination.

8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

Notice to Residents [Notice PIH 2023-16]

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

MHA Policy

MHA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

MHA Policy

MHA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means MHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While MHA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, MHA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, MHA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow MHA access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

MHA Policy

If MHA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond MHA's control (e.g., required parts or services are not available, weather conditions, etc.), MHA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. MHA will also notify the family of an estimated date of completion.

The family must allow MHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

EXHIBIT 8-1: SMOKE-FREE POLICY

In accordance with HUD regulations, the Moline Housing Authority has adopted these smoke-free policies. The policies are effective as of July 30, 2018. The PHA's smoke-free policy is applicable to all residents, household members, employees, guests, and service persons.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term "smoking" means any inhaling, exhaling, burning, or carrying any lighter cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

The use of, or smoking of marijuana is not allowed anywhere on Moline Housing Authority property except for the limited circumstances described in Appendix P.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

MHA Policy

MHA has not designated any smoking areas on the MHA's property. Residents may not discard smoking products on the property.

Electronic Nicotine Delivery Systems

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Use of ENDS is not permitted in public housing units, common areas, or outdoor areas within 25 feet from housing and administrative buildings

Enforcement

MHA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, MHA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. MHA will not evict a resident for a single incident of smoking in violation of this policy. As such, MHA will implement a graduated enforcement framework that included escalated warnings. Prior to pursuing eviction for violation of smoke-free policies, MHA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and providing smoking cessation information. The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations

that warrant enforcement action, state any disciplinary actions that will be taken for persistent non-responsiveness or repeated noncompliance, and state how many instances on noncompliance will constitute a violation. Tenancy termination and eviction will be pursued only as a last resort. MHA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Upon issuance of a written warning from the property manager and/or a documented complaint, MHA will increase the frequency of unit inspections for a suspected policy violator. This could include weekly or bi-weekly inspections for a length of time determined by MHA staff

MHA will provide information and resources on smoking cessations, including:

- HUD's Healthy Homes Website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_home
- State "Quitlines": 1-800-QUIT-NOW
- Local Health Departments
- Tobacco Control Organizations: American Lung Association

If the resident does not have any new violations for 6 months, the resident will be considered to have a clear record, and no further enforcement action will be taken.

Repeated violation of the smoke-free policy may rise to the level of other good cause for termination of tenancy. MHA will consider three documented violations to constitute termination of tenancy.

Reasonable Accommodation

While addiction to nicotine or smoking is not a disability, MHA will provide reasonable accommodation to persons with disabilities who smoke that are in compliance with the requirements of this smoke-free policy.

Medical Marijuana Policy

See the Smoke Free Policy in Appendix P.

Chapter 9.A.

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 9.B of the model policy.

MHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which MHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires MHA to offer all families the choice of paying income-based rent or flat rent at least annually. MHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

> Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.
>
> Part II: Reexaminations for Families Paying Flat Rents. This part contains MHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains MHA's policies for conducting annual updates of family composition for flat rent families.
>
> Part III: Interim Reexaminations. This part includes HUD requirements and MHA policies related to when a family may and must report changes that occur between annual reexaminations.
>
> Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, MHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, MHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, MHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, MHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purpose of lease enforcement or eviction.

MHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of MHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains MHA's policies for conducting annual reexaminations.

9-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 960.257]

HUD permits MHA to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years MHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. MHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, MHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

MHA Policy

MHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. MHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, MHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, MHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

9-I.C. SCHEDULING ANNUAL REEXAMINATIONS

MHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

MHA Policy

Generally, MHA will schedule annual reexaminations to coincide with the family's anniversary date. MHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

MHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

MHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of MHA. However, MHA should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. MHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

MHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, cohead, and all family members 18 years of age and older. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MHA to request a reasonable accommodation (See Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview MHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without MHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.D. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

MHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a MHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. MHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

MHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHA's ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28]

MHA Policy

At the annual reexamination, MHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. MHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If MHA proposes to terminate assistance based on lifetime sex offender registration information, MHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d). (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, MHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for MHA's policies governing compliance with the community service requirement.

9-I.E. EFFECTIVE DATES

As part of the annual reexamination process, MHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

MHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If MHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If MHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MHA.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by MHA by the date specified, and this delay prevents MHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that MHA offer all families the choice of paying income-based rent or flat rent at least annually. MHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, MHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. MHA is only required to provide the amount of income-based rent the family might pay in those years that MHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, MHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains MHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

MHA Policy

For families paying flat rents, MHA will conduct a full reexamination of family income and composition once every 3 years.

However, for flat rent families who become over-income, this policy will not apply. The PHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years.

If the determination is as a result of an interim reexamination, the PHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

MHA Policy

In conducting full reexaminations for families paying flat rents, MHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require MHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that MHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

MHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

MHA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, MHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

MHA Policy

Families generally are required to participate in an annual update interview, which must be attended by the head of household, spouse, or co-head, and any family member age 18 years or older. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MHA to request a reasonable accommodation.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to MHA. The family will have 10 business days to submit the required information to MHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. MHA will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, MHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to MHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. MHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

MHA Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, MHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for MHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and MHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances MHA must process interim reexaminations to reflect those changes. HUD regulations also permit MHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. MHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and MHA policies that describe the changes families are required to report, the changes families may choose to report, and how MHA will process both MHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

MHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, MHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

MHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days.

MHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

MHA will conduct interim reexaminations for families whose gross income increases $200 or more per month, but families are still required to report any change in income. Failure to report income increases will result in a lease violation and may result in lease termination. A family with zero ($0) income must report any income change and is not subject to the above monthly $200 gross income increase rule for an interim reexamination.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require MHA approval. However, the family is required to promptly notify MHA of the addition [24 CFR 966.4(a)(1)(v)].

MHA Policy

The family must inform MHA of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request MHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

MHA may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which MHA consent will be given or denied. Under such policies, the factors considered by MHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- MHA's obligation to make reasonable accommodation for handicapped persons.

MHA Policy

Families must request MHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by MHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), MHA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by MHA. Exceptions will be made on a case-by-case basis.

MHA will not approve the addition of a new family or household member unless the individual meets MHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If MHA determines that an individual does not meet MHA's eligibility criteria as defined in Chapter 3, MHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

MHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

MHA Policy

If a family member ceases to reside in the unit, the family must inform MHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform MHA within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because MHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, MHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

MHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

MHA-initiated Interim Reexaminations

MHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by MHA. They are not scheduled because of changes reported by the family.

MHA Policy

MHA will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), MHA will conduct an interim reexamination at the conclusion of the 24-month eligibility period.

If the family has reported zero income, MHA will conduct an interim reexamination every 90 days as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), MHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, MHA will conduct an interim reexamination.

MHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

MHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give MHA the discretion to determine the circumstances under which families will be required to report changes affecting income.

MHA Policy

Families are required to report all increases in income, including new employment, within 10 business days of the date the change takes effect.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. MHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

MHA Policy

If a family reports a change that it was required to report but that would not result in an increase in the tenant rent because the monthly increase does not exceed $200, MHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, MHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

MHA Policy

The family must notify MHA of changes in writing by completing and signing a Request for Interim Adjustment.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if MHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, MHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from MHA. This time frame may be extended for good cause with MHA approval. MHA will accept required documentation by mail, or in person.

Effective Dates

MHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

MHA Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenant rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported, except as provided below. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

Income decreases reported by or before the tenant accounting cut-off date, which is the 20th day of each month, will be effective the first of the following month. Income decreases reported after the 20th day of the month will be effective the first of the second month. A decrease that is verified to last less than 30 days will not be processed.

A resident claiming reduced earned income based on a reduction or loss of hours, tips, etc. from their employment, must provide verification of least 30 days of lost or lower income before a rent adjustment will be processed. The effective date of the rent reduction in such cases will be retroactive to when the loss of income was first reported.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, MHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in MHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

MHA Policy

Unless MHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires MHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When MHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of MHA's schedule of Utility Allowances for families in MHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, MHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of MHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under MHA's grievance procedure [24 CFR 966.4(c)(4)].

MHA Policy

The notice to the family will include the Gross Annual Income and Adjusted Income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, MHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, MHA may discover errors made by MHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 9.B.

REEXAMINATIONS UNDER HOTMA 102/104

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 9.A. of the model policy.

With the exception of non-public housing over income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for flat rent families, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, the PHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA’s policies related to streamlined income determinations and the use of safe harbor income verifications.

This part contains the PHA’s policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

MHA Policy

Generally, MHA will schedule annual reexaminations to coincide with the family's anniversary date. MHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission). The effective renewal date for each new lease will be the 1st of the month of the family's admission month.

If the family transfers to a new unit, MHA will perform a new annual reexamination, and the anniversary date will be changed.

MHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The PHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

MHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact MHA to request a reasonable accommodation (See Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact MHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview MHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without MHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

MHA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an MHA-designated reexamination form as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed within the last reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim to determine the family's total annual income. The PHA may use verification obtained from the interim for this step.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paystubs with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

MHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with MHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with MHA or other agency's determination of income or MHA has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

MHA Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

MHA Policy

At the annual reexamination, MHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. MHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

9-I.F. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

MHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If MHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by MHA.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by MHA by the date specified, and this delay prevents MHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the PHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

MHA Policy

For families paying flat rents, the MHA will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income, this policy will not apply. MHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, MHA will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, MHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, MHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

MHA Policy

In conducting full reexaminations for families paying flat rents, MHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

MHA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, MHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

MHA Policy

Generally, the family will not be required to attend an interview for an annual update. However, if MHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to MHA. The family will have 10 business days to submit the required information to MHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. MHA will accept required documentation by mail, by email, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, MHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to MHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

MHA Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

MHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

MHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 966.4(a)(1)(v)].

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

  MHA Policy

  Families must request MHA approval to add a new family member (other than due to birth, adoption, or court-ordered custody), live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by MHA prior to the individual moving into the unit.

  If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), MHA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by MHA. Exceptions will be made on a case-by-case basis.

  MHA will not approve the addition of a new family or household member unless the individual meets MHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

  If the MHA determines that an individual does not meet MHA's eligibility criteria or documentation requirements, MHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

  MHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

The family must promptly notify the PHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

MHA Policy

If a household member ceases to reside in the unit, the family must inform MHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

MHA will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

MHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

MHA Policy

The MHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

MHA Policy

When a family reports an increase in their earned income between annual reexaminations, MHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

MHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

MHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the MHA policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

MHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify MHA of changes either orally or in writing. If the family provides oral notice, MHA may also require the family to submit the changes in writing, including email.

Within 10 business days of the family reporting the change, MHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, MHA will note the information in the tenant file but will not conduct an interim reexamination. MHA will send the family written notification (which may be emailed) within 10 business days of making this determination informing the family that MHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, MHA will determine the documentation the family will be required to submit based on the type of change reported and MHA policies in Chapter 7. MHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from MHA. This time frame may be extended for good cause with MHA approval. MHA will accept required documentation by mail, email, or in person. MHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if MHA determines that an interview is warranted, the family may be required to attend.

9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively. Income decreases reported by or before the tenant accounting cut-off date, which is the 20th day of each month, will be effective the first of the following month. Income decreases reported after the 20th of the month will be effective the first of the second month. A decrease that is verified to last less than 30 days will not be processed.
- A resident claiming reduced earned income based on a reduction or loss of hours, tips, etc. from their employment, must provide verification of at least 30 days of lost or lower income before a rent adjustment will be processed. The effective date of the rent reduction in such cases will be retroactive to when the loss of income was first reported.

Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

MHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, MHA will apply the decrease the first of the month following completion of the interim reexamination.

However, MHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to MHA management operations. MHA will decide to apply decreases retroactively on a case-by-case basis.

When MHA applies the results of interim increases retroactively, MHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with MHA policies.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

MHA Policy

Unless MHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

MHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

Notice PIH 2023-27

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.
Last reexamination – 3/1/2023 Annual Reexamination
Ruby: Georgia:
Wages: $30,000 SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby:

Wages Total: $33,651

Quarter 3 of 2023: $8,859 (City Public School)

Quarter 2 of 2023: $8,616 (City Public School)

Quarter 1 of 2023: $8,823 (City Public School)

Quarter 4 of 2022: $7,353 (City Public School)

Georgia:

SSI Total: $10,980

2023 benefit $915 monthly

Income Reported on Reexamination Application	
Ruby: Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)	Georgia: SSI benefits: $10,980 (no changes)
Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: $64.05 ($915 x 0.07) New gross SSI benefit: $11,748.60 ($979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
Summary of Annual Income (as reported on the HUD-50058)	
Ruby (Head of Household): Other Wage: $33,651 Myers Family Total Annual Income: $45,399	Georgia (Other Youth Under 18): SSI: $11,748

Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination
Wages: $28,000

The EIV report pulled on 1/15/2024

Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: $0 (permanent change; no longer receiving)

Social Security: $14,400 ($1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): $14,400 (SS)

Hewson Family Total Annual Income: $14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser)
Child support: $2,400	

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: $0 (no wage data reported since Q1 2023)	Wages Total: $8,600
	Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)
	Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)
	Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)
	Quarter 3 of 2023: $1,800 (The Onion Garden Shop)
	Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change)	Wages: $6,000
VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)	
Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

<table>
<tr><td colspan="2">Calculating Fergus' Other Non-Wage Income</td></tr>
<tr><td colspan="2">Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.</td></tr>
<tr><td colspan="2">Summary of Annual Income (as reported on the HUD-50058)</td></tr>
<tr><td>Samantha (Head of Household):

Own business: $18,000

Pension: $12,300

Child support: $1,200</td><td>Fergus (Co-head):

Wages: $9,360</td></tr>
<tr><td colspan="2">Poole Family Total Annual Income: $40,860</td></tr>
</table>

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the PHA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals,, including service and support animals, and pets, and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]

Service Animals

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

  If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is "no," the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?

- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

  If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

General Considerations

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and their need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes

involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

MHA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and MHA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

MHA Policy

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, MHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If MHA determines that no such accommodation can be made, MHA may withdraw the approval of a particular assistance animal.

PART II: GENERAL POLICY REGULATIONS

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

In the event of an emergency or building evacuation it is the responsibility of the pet owner to remove the animal.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

MHA Policy

Pets must be registered with MHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Refusal to Register Pets

MHA Policy

MHA will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

MHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If MHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of MHA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with MHA's grievance procedures.

Pet Agreement

MHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the MHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the MHA's pet policy and applicable house rules, that they have read the policies and/or rules, understand them, and agree to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with MHA's pet policy and applicable house rules may result in the withdrawal of MHA approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal

- Requiring pet owners to have their pets spayed or neutered

Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages PHAs to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership,* p. 9].

PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

MHA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

Reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

Pet Restrictions

MHA Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

MHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 20 gallons. Such a tank or aquarium will be

counted as 1 pet.

Other Requirements

MHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

MHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the direct control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Residents are prohibited from feeding or harboring stray animals and unregistered or wild animals, including birds.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

PHA Policy

With the exception of common areas as described in the previous policy, the PHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the PHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

MHA Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by MHA.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

MHA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

MHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

MHA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for their pet.

Each pet owner shall be responsible for appropriately training and caring for their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage MHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time, or left alone outside a dwelling. In the event the pet owner is incapacitated or no longer available to care for the pet, the person designated on the registration form must remove the pet. In absence of the

designated person's availability, management will place the pet with the Rock Island County Humane Society. All resident pet owners shall provide adequate care, nutrition, exercise, and medical attention for their pets. Pets that appear to be poorly cared for or are left unattended for longer than the required designated time as specified under the description of pet requirements for that specific pet will be reported to the Humane Society and will be removed from the premises at the pet owner's expense.

In the event of a tenant's sudden illness, the resident pet owner agrees that management shall have discretion with respect to the provision of care for the pet consistent with policy guidelines and at the expense of the resident pet owner unless written instruction with respect to such care are provided in advance by the resident to the project office. All care shall be at the resident's expense.

Unwillingness on the part of named caretakers of a pet to assume custody of the pet shall relieve management of any requirement to adhere to any written instruction with respect to the care or disposal of a pet and shall be considered as authorization to management to exercise discretion in such regard consistent with policy guidelines.

Resident pet owners acknowledge that other residents may have chemical sensitivities or allergies related to pets or be easily frightened by such animals. The resident, therefore, agrees to exercise common sense and common courtesy with respect to such other resident's right to peaceful and quite enjoyment of the premises.

Responsible Parties

MHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify MHA and sign a statement that they agree to abide by all the pet rules.

Inspections and Repairs

MHA Policy

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be caged or held under physical restraint by the pet owner or responsible person until management has completed its tasks. Failure of the tenant to do so will be deemed a failure to comply with the scheduled inspection and constitute a lease violation. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

Pets Temporarily on the Premises

MHA Policy

Pets that are not owned by a tenant are NOT allowed on the premises. No visitor or guest will be allowed to bring pets on the premises at any time. Residents will not be allowed to pet sit or house a pet without fully complying with this policy. An exception to this would be a service animal.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by MHA.

Pet Rule Violations

MHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of their choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

MHA Policy

If the pet owner and MHA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by MHA, MHA may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for MHA's determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice, except that if MHA determines the pet is a vicious or dangerous animal, a period not to exceed 10 days

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

MHA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if MHA after reasonable efforts cannot contact the responsible party, MHA may contact the appropriate state or local agency and request the removal of the pet.

Any pet suffering illness must have an appointment within two (2) days with a veterinarian for diagnosis and treatment. MHA must, upon demand, be shown a statement from the veterinarian indicating the diagnosis. Any pet suspected of suffering symptoms of rabies or any other disease considered to be a threat to health must be immediately removed from the premises until signed evidence from a veterinarian can be produced to indicate that the animal is not so afflicted.

THE MOLINE HOUSING AUTHORITY SHALL HAVE THE RIGHT TO TAKE ALL NECESSARY ACTIONS UNDER THE LAW TO REMOVE ANY PET THAT CAUSES BODILY INJURY TO ANY PERSON OR ANIMAL, OR HAS THREATENED TO CAUSE BODILY INJURY TO PERSON OR ANIMAL.

Termination of Tenancy

MHA Policy

MHA may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

MHA Policy

MHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for MHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Hillside Heights Rules and Regulations.
Pets must go directly from their floor to the elevator and down to first floor to the outside and back the same way.

Only one (1) pet is allowed in elevator at a time. If one (1) pet is in the car when it stops at a floor, the pet owner must wait for a car without a pet.

Pets are not permitted on other floors other than first floor or their own apartment floor.

Pets are never permitted in the public rooms, i.e., office, community room, laundry room, lounge, or smoking room.

Pet are not permitted in hallways except for proceeding directly to the elevator or apartment when entering or exiting.

PART III: OWNER RESPONSIBILITY

10-III.A. PET RESPONSIBILITY CARD/PET LEASE (see EXHIBIT I)

Prior to pet admission, the owner must fill in and sign a written responsibility form showing name, address and phone number of three (3) local persons who will come and get the pet in the event of a tenant's illness, vacation, or death. The responsibility form must be renewed each year at the annual reexamination. Persons so named will be responsible in the order of their names on the responsibility card.

Prior to pet admission, the owner must complete and sign MHA's pet agreement.

Pet Agreement

MHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with MHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the MHA's pet policy and applicable house rules, that they have read the policies and/or rules, understand them, and agree to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with the MHA's pet policy and applicable house rules may result in the withdrawal of MHA approval of the pet or termination of tenancy.

Damages Caused by Pets

MHA Policy

All reasonable expenses incurred by MHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the MHA's Schedule Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be held under physical restraint

by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease violation and/or lease termination.

10-III.B. PET DAMAGE DEPOSIT

A Pet Damage Deposit will be required for dogs and cats only. However, all pet owners must comply with registration rules for all other pets. The Pet Damage Deposit is to be used to pay reasonable expenses directly attributable to the presence of the pet in the project including, but not limited to the cost of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The amount of the Pet Damage Deposit will be $100.00. Tenant will pay $50.00 at the time of application and remaining balance at time of application approval. If this creates a financial hardship, the remaining balance may be paid in full by three (3) months. Upon vacancy or permanent removal of pet, the Pet Damage Deposit will be refunded minus repairs for damage or necessary fumigation due to the pet.

Residents liability for damages caused by his/her pet is not limited to the amount of the pet deposit and the resident will be required to reimburse the project for the amount for the real cost of any and all damages caused by his/ her pet where they exceed the amount of the pet deposit.

All units occupied by a dog or cat may be fumigated upon being vacated, the cost of which will be born by the security deposit. Infestation of a unit by fleas carried by the pet shall be the responsibility of the pet owner, and if not corrected by the owner, shall result in a lease violation.

10-III.C. DOG OWNER REQUIREMENTS

Any dog must be no less than six (6) weeks old.

Dog must be spayed or neutered by six (6) months of age and proof must be furnished to the Housing Coordinator.

Each dog must be licensed by proper authority and proof of license renewal must be furnished by the tenant each year at the annual reexamination to his or her Housing Coordinator.

The dog must wear a collar at all times showing license and owner's name and address.

Each year by at the annual reexamination, the tenant must show proof that the dog has had the proper Parvo shots and distemper and rabies shots, the proof must be signed by a veterinarian.

A dog cannot be over 15 inches tall at the top of the shoulder or weigh over 30 pounds when it is considered full-grown.

A dog must be on a leash at all times when outside owner's apartment unless it is in an approved locked pet carrier. The leash must be no longer than six (6) feet long. Any city, county or state rules governing the leashing of animals shall also apply.

The pet owner must remove any waste from his/her pet as soon as it is deposited on Moline

Housing Authority property. The waste must then be placed in a plastic bag, sealed tightly, and disposed of as trash. Pet Owners will be charged if MHA removes a pet's waste from MHA property, and repeated violations shall result in removal of the animal and/or a lease violation.

IMPORTANT: Only one (1) pet is allowed in an elevator at a time. If one (1) pet is in the car when it stops at a floor, the pet owner must wait for a car without a pet.

No dog may stay alone in an apartment for more than 12 hours. It is the responsibility of the tenant if they have to leave suddenly and be away for more than 12 hours to take the pet elsewhere until they return. If a pet is found alone, Pet Removal policy (Section 10-II.D) will take effect.

Pet owner must designate an alternative residence for the pet before management approves pet.

Pet owners are responsible for immediate removal of the feces of their pet and shall be charged in instances where damages occur to the Housing Authority property due to pet or removal of pet feces by staff.

Pet owners shall be charged $25.00 each time for not removing the feces of their pet. After the third (3rd) offense, the Health Department will be notified

Pet owners are not to allow their pet to urinate on bushes.

Clean-up of common area required because of attributable pet nuisance shall be billed to and paid by the resident pet owner in accordance with the repayment procedure.

Pet owners will be responsible for all cost incurred if their pet inflicts bodily injuries on a person or animal.

Pet Owners will be responsible for all cost incurred if their pet damages property belonging to MHA or another tenant.

10-III.D. CAT OWNER REQUIREMENTS

Cats may be not less than six (6) weeks old.

All cats must be litter trained before admission.

The cat must be spayed or neutered by six (6) months. Proof must be shown to the Housing Manager

The cat must wear a collar at all times showing owner's name and address plus a flea collar.

Proof must be shown before admission and each year at the annual reexamination that the cat has had the proper FVR-CP and rabies and distemper shots. This proof must be signed by a veterinarian.

Cat must be on a leash at all times when outside of the owner's apartment unless is in an approved locked pet carrier. The leash must be no longer than six (6) feet. Any city, county, or state rule governing the leashing of animals shall apply.

Tenant must use an appropriate litter box, which is kept clean daily.

No cat can be over eight (8) inches tall at the shoulders or weigh over 15 pounds.

Cats may be exercised on the Moline Housing Authority property.

No cat may stay alone in an apartment overnight for more than 24 hours. It is the responsibility of the tenant if they have to leave suddenly and be away overnight to take the pet elsewhere until they return. If a pet is found alone, the Pet Removal policy (Section 10-II.D.) will take effect.

The pet owner must remove any waste from his pet as soon as it is deposited on Moline Housing Authority property. The waste must then be placed in a plastic bag, sealed tightly, and disposed of as trash.

The flea collar should be changed every three (3) months.

All animal waste or litter from cat litter boxes shall be picked up immediately by the pet owner and disposed of in a sealed plastic bag and placed in trash bins. Cat litter shall be changed at least twice a week.

No cat litter, regular, scoopable or flushable, shall be disposed of by flushing down toilets. Charges for unclogging toilets or clean-up of common area required because of attributable pet nuisance shall be billed to and paid by the resident pet owner.

Clean-up of common area required because of attributable pet nuisance shall be billed to and paid by the resident pet owner.

Pet owners will be responsible for all cost incurred if their pet inflicts bodily injuries on a person or animal.

Pet Owners will be responsible for all cost incurred if their pet damages property belonging to MHA or another tenant.

Cat declawing is not a requirement of pet ownership at MHA.

10-III.E. BIRD OWNER REQUIREMENTS

No monthly maintenance fee unless a problem exists.

No more than (2) birds to a unit will be permitted. Canaries, parakeets, cockatiels or lovebirds only. **No parrots.**

The cage must be no larger than five (5) feet high and four (4) feet wide.

Cages must be cleaned and debris disposed of in a plastic bag to be put in the trash immediately.

Birds must be healthy and free of disease at all times.

Birds that do not have their wing clipped must be in a cage when inside of the resident's apartment. Birds must be in a cage when entering or leaving the building.

Birds are not permitted to be left alone in an apartment over 24 hours unless an arrangement for daily care has been made by the owner.

Clean-up of common area required because of attributable pet nuisance shall be billed to and paid by the resident pet owner.

Pet owners will be responsible for all cost incurred if their pet inflicts bodily injuries on a person or animal.

Pet Owners will be responsible for all cost incurred if their pet damages property belonging to MHA or another tenant.

10-III.F. FISH OWNER REQUIREMENTS

No monthly maintenance fee unless a problem exists.

One (1) fish tank only permitted to a unit and must not be bigger than twenty-five (25) gallon size, or one (1) large gold fish bowl no more than one (1) gallon size.

Fish may not be alone in the unit over one (1) week unless the owner has made arrangements for daily care.

Pet owner must be aware when cleaning or filling fish tanks that water damage done to tenant's apartment or apartments under him will be billed to the pet owner and any charges must be paid by the resident pet owner.

Clean-up of common area required because of attributable aquarium nuisance shall be billed to and paid by the resident pet owner.

Pet Owners will be responsible for all cost incurred if their aquarium damages property belonging to MHA or another tenant.

PART IV: PET REMOVAL

10-IV.A. PET REMOVAL

Management may move to require the removal of a pet from the premises on a temporary or permanent basis for the following causes:

a. Creation of a nuisance after proper notification consistent with these Pet Rules. Notice shall be within a forty-eight (48) hour period.

b. Excessive pet noise or odor with proper notification.

c. Unruly or dangerous behavior.

d. Excessive damage to the resident's apartment unit.

e. Repeated problems with vermin flea infestation.

f. Failure of the tenant to provide for adequate care of his/her pet.

g. Leaving a pet unattended for more than the designated time as described under the Pet Owner requirements

h. Tenant serious illness and/or death.

i. Failure to observe any other rule contained in this section and not here listed upon proper notification.

All complaints of cruelty and all dog bites will be referred to animal control or applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by verifiable evidence, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation;

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or terminate the pet owner's tenancy.

If it has been determined that the tenant must remove the pet from the unit, the tenant will be required to remove the pet within 10 business days of the notice, or such shorter period designated by MHA in the event it is designated as a viscous or dangerous animal.

EXHIBIT I: PET PERMIT APPLICATION

Tenant Name:_____

Tenant Address:_____

Type of permit requested: _____DOG _____CAT _____BIRD _____FISH

Pet Security Deposit: DOG_____ _____
AMOUNT DATE PAID

CAT_____ _____
AMOUNT DATE PAID

Description: Animal's name:_____ Breed_____

Weight:_____ Height:_____

Annual Shots (date)_____

Male/Date Neutered:_____ License Number:_____

Female/Date Spayed:_____ License Number:_____

PET RESPONSIBILITY

Emergency Contacts:

(1) Name: _____ Relationship:_____

Address:_____

Phone #:_____

(2) Name: _____ Relationship:_____

Address:_____

Phone #:_____

(3) Name: _____ Relationship:_____

Address:_____

Phone #:_____

****

Color Photograph Attached (Optional):_____

Insurance Coverage: (Optional): Agent:_____

Address:_____

Policy Number:_____

****

Date application received:_____ By:_____

Policy explained to tenant by:_____

Apartment inspected for housekeeping: _____Yes _____No

Approved by: _____

Rejected by:_____

Reason(s):_____

_____

.

Date Permit Issued:_____ Permit Number:_____

PET PERMIT NO._____

1. Parties and dwelling unit:

   Parties of this unit are the HOUSING AUTHORITY OF MOLINE, referred to as the management /landlord and _____ referred to as the tenant. The Landlord leases to the tenant unit number _____ located at _____
   _____

2. Length of Time (Term):

   The term of this permit shall begin on _____ and end as per the Pet Policy.

3. Pet Security Deposit:

   The tenant has deposited $_____ with the landlord. The landlord will hold the pet security deposit for the period the tenant occupies the unit. After the tenant has moved from the unit or the pet has been permanently removed, the landlord will determine whether the tenant is eligible for a refund of any or all of the pet security deposit, and make such within (30) days.

4. The tenant agrees to file a copy of any Municipal registration or license with the landlord, and to keep same current.

5. The tenant agrees to keep the pet properly inoculated for rabies and distemper, and to file proof that such inoculations or vaccinations are current.

   The tenant agrees to assume all personal financial responsibility for damages to any personal or project property caused by the pet, and assumes personal responsibility for personal injury to a party, caused by the pet.

6. Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the direct control of the resident or other responsible individual at all times. No animals may be tethered or chained inside or outside the dwelling unit at any time, or left alone outside a dwelling. In the event the pet owner is incapacitated or no longer available to care for the animal, the person designated on the registration form must remove it.

7. The tenant hereby certifies and agrees to the general terms and conditions of the management of this pet by the tenant, and understands and acknowledges that the Pet Permit can be revoked for failure to follow and abide by the Pet Policy.

8. The tenant agrees to have a pet use outside relief area, if pet is dog or cat, or cats may use approved kitty litter container in apartment. Tenant further agrees to pay for the cost of any clean up as the result of “accidents” by the pet.

9. The tenant agrees to dispose of pet waste and kitty litter by placing in double plastic bags and putting bag in trash receptacle – daily.

10. The tenant agrees and understands that the Pet Policy is a part of the lease and this permit.

11. The tenant agrees to file a "Pet Emergency Card Plan" with the Landlord and agrees to hold the landlord and employees harmless of any liability in connection with the Pet Emergency Card Plan.

AS A CONDITION OF THE APPLICATION FOR A PET PERMIT ON_____, I_____, UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS OF THE PET POLICY.

Tenant _____ **Date** _____

Landlord: _____ **Date** _____

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and MHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: MHA Implementation of Community Service. This part provides MHA policy regarding MHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with MHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), MHA Plan must contain a statement of the how MHA will comply with the community service requirement, including any cooperative agreement into which MHA has entered or plans to enter.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, MHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of MHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12]

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is working
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program

  This exemption applies to anyone whose characteristics or family situation meet the welfare

agency exemption criteria and can be verified.

- Is a member of a family receiving assistance, benefits or services under TANF, services under a state program funded under part A of title IV of the Social Security Act, or any other State welfare program of the state in which MHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to:

- Local public or nonprofit institutions such as schools, child care centers, hospitals, hospices, recreation centers, senior centers, adult day care centers, homeless shelters, indigent feeding programs, cooperative food banks, etc.
- Nonprofit organization that serves MHA residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations
- Helping neighborhood groups/MHA with special projects
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, resident, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board
- Caring for the children of other residents so they may volunteer

NOTE: Political activity is excluded for purposes of eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered though the U.S. Department of Labor), or other training providers

- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

PHA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016-06]

MHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for MHA verification of exempt status. MHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and ready the policy and understand that if they are not exempt, failure to comply with

the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of notice PIH 2015-12, certifying that they understand the requirement.

MHA Policy

MHA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by MHA.

On an annual basis, at the time of lease renewal, MHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

MHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

MHA Policy

At least 30 days prior to lease renewal, MHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or MHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, MHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

MHA must review resident family compliance with service requirements annually at least thirty days before the end of the twelve-month lease term [24 CFR 960.605(c)(3)]. As part of this

review, MHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

MHA Policy

Approximately 30 days prior to the end of the lease term, MHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit MHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or MHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

MHA Policy

Exempt to Non-Exempt Status

If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to MHA within 10 business days.

Within 10 business days of a family reporting such a change, or MHA determining such a change is necessary, MHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30 day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date)

Example 1: Albert Jones turns 18 on 5/10 and is not exempt from the community service requirement. His community service requirement begins on 6/1, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30.

- Albert must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date)

Example 2: Lisa Dewhurst leaves her job on 9/20 and is not exempt from the community service requirement. Her community service requirement begins on 10/1, and her initial compliance is reviewed before the end of the lease term

(anniversary date), which is 6/30.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Non-Exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve-month lease term, it is the family's responsibility to report this change to MHA within 10 business days. Any claim of exemption will be verified by MHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or MHA determining such a change is necessary, MHA will provide the family written notice that the family member is no longer subject to the community service requirement, if MHA is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

MHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

MHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. MHA will provide a completed copy to the family and will keep a copy in the tenant file.

MHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

MHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with MHA's determination, s/he can dispute the decision through MHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by MHA of community service and self-sufficiency activities performed over the last 12 months {Notice PIH 2015-12}

If qualifying community service activities are administered by an organization other than MHA, a family member who is required to fulfill a service requirement must provide documentation required by MHA. MHA may require a self-certification or certification from a third party [24 CFR 960.607].

If MHA accepts self-certification of compliance with the community service requirement, it must

provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

IF MHA accepts self-certification, it must validate a sample of certifications through third-party documentation. MHA must notify families that self-certification forms are available and that a sample of self-certifications will be validates.

HUD strongly encourages PHA's to investigate community service compliance when there are questions of accuracy.

MHA Policy

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to MHA, upon request by MHA, at least annually.

If MHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, MHA has the right to require additional third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the course of the twelve-month lease term [24 CFR 960.603(b)].

MHA may not evict a family due to CSSR noncompliance. However, if MHA finds a tenant is noncompliant with CSSR, MHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that MHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with MHA or the family provides written assurance that is satisfactory to MHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on MHA's determination, in accordance with MHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for MHA's nonrenewal of the lease because of MHA's determination.

The notice of noncompliance will be sent at least 30 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the next 12-month reexamination term, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before MHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, MHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, MHA is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, MHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by MHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and
- A decision on the merits.

MHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before MHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the

current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in MHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

MHA Implementation of Community Service

MHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by MHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

MHA Program Design

MHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

MHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

MHA may provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

MHA may design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. MHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

MHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in MHA Plan.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – volunteer work which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, childcare center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations
- Helping neighborhood groups/MHA with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships
- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence
- Student status at any school, college or vocation school

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older

- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is working
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF, s state program funded under part A of title IV of the Social Security Act, or any other State welfare program, including a state-administered welfare-to work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program

  MHA can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

Work Activities – as relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certification of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of childcare services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.

2. At least eight (8) hours of activity must be performed each month, or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance.
3. Family obligation:
    - At lease execution, all adult members (18 or older) of a public housing resident family must:
        - Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
        - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
    - Upon written notice from MHA, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures and phone numbers of supervisors, instructors, or counselors, certifying to the number of hours contributed.
    - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
    - At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.
4. Change in exempt status:
    - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to MHA and provide documentation of exempt status.
    - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to MHA. Upon receipt of this information MHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, MHA will:
    - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
    - Provide self-sufficiency opportunities.
2. MHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, MHA will verify the exemption status in accordance with its verification policies. MHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use MHA's grievance procedure if they disagree with MHA's determination.
4. Noncompliance of family member:
    - At least thirty (30) days prior to the end of the 12-month lease term, MHA will begin reviewing the exempt or non-exempt status and compliance of family members;
    - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, MHA finds the family member to be noncompliant, MHA will not renew the lease unless:
        – The head of household and any other noncompliant resident enter into a written agreement with MHA, to make up the deficient hours over the next twelve (12) month period; or
        – The family provides written documentation satisfactory to MHA that the noncompliant family member no longer resides in the unit.
    - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to MHA that the noncompliant family member no longer resides in the unit;
    - The family may use MHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(l) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: MHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from MHA's community service requirement for the following reason:

❒ 62 years of age or older. *(Documentation of age in file)*

❒ Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. (*Documentation of HUD definition of disability in file)*

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

_____ _____
Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*

❒ Is engaged in work activities. *(verification in file)*

❒ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA is located, including a state-administered welfare-to work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which MHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program. *(Documentation in file)*

_____ _____
Signature of Family Member Date

_____ _____
Signature of MHA Official Date

EXHIBIT 11-4: CSSR WORK-OUT AGREEMENT

Date:_____

Noncompliant Adult:_____

Adult family member:_____

Community Service & Self-Sufficiency Requirement (CSSR):

Under Section 12 of the U.S. Housing Act, the Moline Housing Authority is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in public housing must perform 8 hours per month of community service or self-sufficiency activities.

Noncompliance: Moline Housing Authority has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is MHA's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform _____ hours of CSSR activities. However, there were _____ hours of verified CSSR activities. Therefore, you are in noncompliance for _____ hours.

Moline Housing Authority will not renew the lease at the end of the current 12-month lease term unless the head of household and noncompliant adult sign a written work-out agreement with Moline Housing Authority or the family provides written assurance that is satisfactory to Moline Housing Authority explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12] The terms of the CSSR work-out agreement are on the reverse side of this page.

Enforcement: Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit, Moline Housing Authority is required to initiate termination of tenancy proceedings at the end of the current 12-month lease [24 CFR 966.53(c)].

Terms of CSSR Work-Out Agreement

Noncompliant Adult

Please check one of the below boxes:

☐ I [head of household or spouse/cohead] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]

☐ I, the noncompliant adult named above, agree to complete _____ hours in the upcoming 12-month lease term. These hours include the _____ hours not fulfilled in the most previous lease term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

	Description of Activity	**Number of Housing**
1.		
2.		
3.		
4.		
5.		
	Total Hours	

SIGNED AND ATTESTED THIS DATE

Signature:_____ Date:_____
Head of Household

Signature:_____ Date:_____
Noncompliant Adult, if other than Head of Household

Signature:_____ Date:_____
MHA Official

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains MHA's transfer policy, based on HUD regulations, HUD guidance, and MHA policy decisions.

This chapter describes HUD regulations and MHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: MHA Required Transfers. This part describes types of transfers that may be required by MHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

MHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternative accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

MHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by MHA.

In the case of a genuine emergency, it may be unlikely that MHA, will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, MHA should find alternative accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, MHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)]. In extenuating circumstances, e.g., DCFS compliance requirement to keep a family together, MHA may expedite a transfer by considering it an emergency transfer. Said expedited transfers shall be made on a case-by-case basis with the approval of the Executive Director.

The VAWA 2013 final rule requires MHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking.

MHA Policy

The following are considered emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in section 16-VII.D, or by any proof accepted by MHA. To request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, MHA may waive this requirement in order to expedite the transfer process.

MHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. MHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The PHA defines *immediately available* as the next available vacant unit that is ready for move-in. If an internal transfer to a safe unit is not immediately available, MHA will assist the resident in seeking an external emergency transfer either within or outside MHA's programs,

MHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, MHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, MHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will follow procedures outlined in Exhibit 16-4.

12-I.D. COSTS OF TRANSFER

MHA Policy

MHA will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to emergency conditions, provided the emergency condition was not the result of an intentional act, carelessness, or negligence on the part of the resident, a member of the resident's family, or a visitor.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

MHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, MHA will collect information from companies in the community that provide these services.

MHA will reimburse the family for eligible out-of-pocket moving expenses up to the MHA's established moving allowance.

PART II: PHA-REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to MHA to develop reasonable transfer policies.

MHA may require that a resident transfer to another unit under some circumstances. For example, MHA may require a resident to transfer to make an accessible unit available to a disabled family. MHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, MHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by MHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4I(8)(i)].

12-II.B. TYPES OF MHA REQUIRED TRANSFERS

MHA Policy

The types of transfers that may be required by MHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by MHA are mandatory for the tenant. The family will be given 15 days to vacate the unit after receipt of written notice.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, MHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

MHA Policy

When a non-accessible unit becomes available, MHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. MHA may wait until a disabled resident or applicant requires the accessible unit before transferring the family not requiring the accessible features out of the accessible unit. The moving costs for any required transfer under this paragraph shall be paid by the transferring family.

Occupancy Standards Transfers

MHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to MHA policy [24 CFR 960.257(a)(4)]. On some occasions, MHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

MHA Policy

MHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on MHA's occupancy standards as described in Section 5-I.B.

MHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on MHA's occupancy standards,

when MHA determines there is a need for the transfer.

MHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by MHA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, disposition, revitalization, or rehabilitation transfers These transfers permit MHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

MHA Policy

MHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. MHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

MHA-required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, MHA may not take action on the transfer until the conclusion of the grievance process.

12.II.D. COST OF TRANSFER

MHA Policy

MHA will bear the reasonable costs of transfer that the MHA requires, except that resident will be required to bear the cost of occupancy standards transfers, transfers to a non-handicapped unit, or when the transfer is due to uninhabitability based on fault of the resident.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

MHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, MHA will collect information from companies in the community that provide these services.

MHA will reimburse the family for eligible out-of-pocket moving expenses up to the MHA's established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides MHA will discretion to consider transfer requests from tenants. The only requests that MHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of MHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by MHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfers that MHA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to MHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by MHA.

MHA will consider the following as high priority transfer requests:

> When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.
>
> When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at MHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.
>
> When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment or a transfer to a unit with accessible features.

MHA will consider the following as regular priority transfer requests:

> When a family requests a larger bedroom size unit even though the family does not meet MHA's definition of overcrowded, as long as the family meets MHA's occupancy standards for the requested size unit. This is considered as an "Other–tenant requested transfer," not an "Occupancy standards" change.
>
> When the head of household or spouse is employed 25 miles or more from the unit; has no reliable transportation and public transportation is not adequate; or has other employment-related circumstances sufficient to justify a priority

transfer, which discretionary decision shall be made by MHA on a case-by-case basis as approved by the Executive Director.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition or it is needed as a reasonable accommodation.

Transfers requested by the tenant are considered optional for the tenant.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preferences. However, MHA may establish other standards for considering a transfer request [PH Occ GB, p. 150]

MHA Policy

Except where reasonable accommodation is being requested, MHA will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety or residents and staff.

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Does not have, and is not currently being treated for household pests

Can get utilities on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations, property damage from abuse, or pest issues will not be transferred until the resident passes a follow-up housekeeping inspection, is clear of pests, and has made payment arrangements with MHA for any property damage.

Exceptions to the good record requirement may be made when it is to MHA's advantage to make the transfer. Exceptions may also be made when MHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D. of this ACOP, or when an outside government agency, e.g., DCFS, has imposed requirements on the resident that can only be satisfied by a transfer

If a family is eligible for different size units according to MHA occupancy guidelines and accepts a smaller unit, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation. If a family requests to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

MHA Policy

When a family transfers from one unit to another, MHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit. All charges will be due according to the MHA Repayment Procedures. If the tenant's security deposit at the time of transfer is not at $250.00, they must pay the difference to bring their security deposit up to the required $250.00.

12-I.E. COST OF TRANSFER

MHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

MHA Policy

The resident will bear all of the costs of transfers they request. However, MHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

In order to help alleviate the cost of the transfer for the resident and MHA, the Housing Authority reserves the right to transfer the appliances from the apartment the resident was residing in to the new apartment.

12-III.F. HANDLING OF REQUESTS

MHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, MHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, MHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

MHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family,

such as documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the "good record" requirement under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

MHA will respond within ten (10) business days of the submission of the family's request. If MHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

MHA Policy

MHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA);
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation);
3. Transfers to make accessible units available;
4. Demolition, renovation, etc;
5. Occupancy standards;
6. Other MHA-required transfers;
7. Other resident-requested transfers.

Within each category, transfers will be processed in order of the date a family requested to be placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director, MHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfer will gain the highest priority as necessary to allow MHA to meet the demolition or renovation schedule.

Transfers will be housed along with applicants for new admission at a ratio of one transfer for one new admission, except that the Executive Director shall have the discretion to modify the ratio or stay transfers, as necessary. Emergency transfers will not be counted against the one-to-one ratio.

12-IV.C. TRANSFER OFFER POLICY

MHA Policy

Residents will receive one offer of a transfer.

When the transfer is required by MHA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

MHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to MHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to MHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D. of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final

application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

MHA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

MHA Policy

If subject to deconcentration requirements, MHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve MHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer, that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. MHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by MHA.

When determining PHA policy on terminations of the lease, MHA must consider state and local landlord-tenant laws in the area where MHA is located. Such laws vary from one locations to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by MHA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses MHA requirements for voluntary termination of the lease by the family.

Part II: Termination by MHA - Mandatory. This part describes circumstances when termination of the lease by MHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by MHA – Other Authorized Reasons. This part describes MHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires MHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options MHA has full discretion whether to consider the options as just cause to terminateprovided that MHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that MHA may consider in lieu of termination, and the criteria MHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and MHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or MHA central office or sent by pre-paid first-class mail, properly addressed.

MHA Policy

If a family desires to move and terminate their tenancy with MHA, they must give at least 30 calendar days advance written notice to MHA of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control MHA, at its discretion, may waive the 30-day requirement.

PART II: TERMINATION BY MHA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitutes grounds for lease termination, but the lease termination is not mandatory. MHA must establish policies for termination of the lease in these cases where termination is optional for MHA.

For those tenant actions or failures to act where HUD requires termination, MHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires MHA to terminate the lease.

Upon the PHA's HOTMA 102/104 compliance date, the below section on failure to provide consent is added:

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

MHA Policy

MHA has established a policy that revocation of consent to access financial records will result in termination of assistance in accordance with MHA policy.

See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

MHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by MHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice 2018-24]

MHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and MHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, MHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date MHA determined the family to be noncompliant.

MHA Policy

MHA will defer the family's termination and provide the family with opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT MHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

MHA must terminate the lease if the family fails to accept MHA's offer of a lease revision to an existing lease, provided MHA has done the following:

- The revision is on a form adopted by MHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.

- MHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- MHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to MHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

MHA must immediately terminate the lease if MHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises.*

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should MHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, MHA must immediately terminate assistance for the household member.

In this situation, MHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household MHA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

MHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]

MHA must immediately terminate the lease following the death of the sole family member.

13-II.J. OVER-INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

MHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, MHA will terminate the family's tenancy within six months of MHA's final notification of the final notification of the family's over-income status in accordance with the continued occupancy policies below.

All PHAs, regardless of size, must implement over-income policies. However, if a PHA owns or operates fewer than 250 public housing units and admits families whose annual income exceeds the low-income limit because there are no income-eligible families on the PHA's waiting list in accordance with 24 CFR 960.503, the over-income limit regulation does not apply to tenant families [24 CFR 950.503]. This regulation is unrelated to HOTMA 103 [24 CFR 960.507]. This is because these families are considered unassisted tenants are not participants in the public housing program.

Over-Income Limit [Notice PIH 2023-03; HOTMA 103 FAQs, December 2024]

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. When determining whether a family is over-income, the PHA must use the applicable income limit for the current number of family members, not including any household members. Further, the over-income limit is based on the family's annual income, rather than their adjusted income.

MHA Policy

MHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	1	2	3	4	5	6	7	8
Over-Income Limit								

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

MHA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with MHA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. MHA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]

The PHA is required to provide over-income families with three notifications within 30 days of the following points: at the initial determination when a family's income first exceeds the limit, at 12 months after the family continues to exceed the limit, and at 24 months of continuously exceeding the limit. If proper notice is not given, the PHA is required to continue to allow the family to stay in the unit until all three notices have been given.

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the PHA's initial over-income determination. The 24 consequtive month grace period begins on the date the PHA notifies the family (for example, the post date of the notice).

The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

MHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, MHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the MHA's over-income policies. The notice will state that the family may request a hearing if the family disputes MHA's determination in accordance with PHA policies in Chapter 14. MHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination

no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

MHA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, MHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to MHA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes MHA's determination in accordance with MHA policies in Chapter 14. MHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27; HOTMA 103 FAQs, December 2024]

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

MHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, MHA will terminate the tenancy of the family 30 days after the final notification of the family's over-income status.

During the period before termination, the over-income family will continue to be a public housing program participant until their tenancy is terminated. MHA will continue to charge the family rent in accordance with public housing regulations, will offer the family the choice between income-based and flat rent as required by the regulations, and will prorate rent for mixed families.

When an over income family is facing termination after exceeding the grace period of 30 days, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

MHA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with state and local laws.

PART III: TERMINATION BY MHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires MHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. MHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and MHA may, as an alternative to termination, require the exclusion of the culpable household member. MHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. MHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of MHA lease. In the development of the terms of the lease, MHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

MHA, with some restrictions, also has the option to terminate the tenancies of families who are over income (See 13-II.J.).

MHA may consider alternatives to termination and must establish policies describing the criteria MHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps MHA must take when terminating a family's lease.

All court cost and legal fees incurred by MHA in connection with a tenant eviction will be charged to the tenant if the MHA prevails on any part of its legal action against the tenant. Additionally, any expenses MHA incurs in an attempt to collect any money owed MHA by the tenant shall be charged against the tenant.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore MHA policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16–VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16–VII.B.

Domestic violence is defined in section 16–VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and MHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

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.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

MHA Policy

MHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

MHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a PHA may evict a family when it determines that a household member is illegally using a drug or 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.

MHA Policy

MHA will terminate the lease when MHA determines that a household member is illegally using a drug or MHA 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.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months on or off the premises.

MHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including MHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

MHA Policy

MHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including MHA management staff residing or working on the premises) or by persons residing in the immediate vicinity of the premises. *Immediate vicinity* means within a three block radius of the premises.

MHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and13-III.F. Upon

consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

PHAs must establish standards that allow termination of tenancy if MHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

MHA Policy

MHA will terminate the lease if MHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months on or off the premises.

MHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if MHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

MHA Policy

MHA will terminate the lease if MHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

MHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations, and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

MHA Policy

MHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of other charges due under the lease, with the exception of nonpayment of rent. Four late payments within a 12-month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers

To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

To abide by necessary and reasonable regulations promulgated by MHA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To abide by MHA's Parking Policy

To abide by MHA's Pet Policy and animal policies

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project

buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause".

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that MHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit MHA to only those examples. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence. [24 CFR 5.2005(c)(1)].

MHA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for MHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by MHA that such a dwelling unit is available

Failure to permit access to the unit by MHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or

repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform MHA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event

Failure to abide by the provisions of MHA pet policy

If the family has breached the terms of a repayment agreement entered into with MHA

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward MHA personnel and contractors.

Abusive or violent behavior towards MHA personnel and contractors includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, MHA will consider alternatives as described in Section 13-III.D and other factors described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, MHA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, MHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

MHA Policy

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

The family must promptly notify MHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, MHA will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, MHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, MHA will secure the unit immediately to prevent vandalism and other criminal activity.

Upon the PHA's HOTMA 102/104 compliance date, the below section on the asset limitation is added:

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

MHA Policy

MHA has adopted a policy of limited enforcement of the asset limitation for all program participants in which families are given the opportunity to cure noncompliance with the asset limitation. All families who are found to be out of compliance at any annual or interim reexamination will be provided up to but no longer than six months from the effective date of that reexamination to cure their noncompliance. Except for a reasonable accommodation for a person with disabilities, no family will be afforded more than six months to cure noncompliance.

Within 10 days of completing the family's reexamination, MHA will provide a written notice stating the family is out of compliance with the asset limitation, but MHA policy allows families up to six months to cure noncompliance. The notice will include the date assistance will be terminated if the family does not cure the noncompliance and provide the opportunity for a grievance hearing in accordance with MHA policies in this chapter.

What families must do to cure noncompliance will depend on why they are identified as noncompliant. MHA will follow verification policies listed in Chapter 7 to verify the family is back in compliance.

If the family does not take corrective action to cure their noncompliance within six months, MHA will provide notification of lease termination and the opportunity for a hearing in accordance with MHA policies in this chapter.

If the family demonstrates and MHA verifies that the family is back in compliance within six months, MHA will provide the family with written notification (which will also be placed in the family's file) that they are no longer out of compliance, and MHA will not initiate termination proceedings.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that MHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with MHA policy.

Additionally, under the Violence Against Women Reauthorization Act of 2013, MHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

MHA Policy

MHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon MHA request.

Repayment of Family Debts

MHA Policy

If a family owes amounts to MHA, as a condition of continued occupancy, MHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from MHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits MHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

MHA Policy

MHA will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that MHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

MHA Policy

MHA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor or a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault or stalking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of MHA's failure to terminate the tenancy

The effect of MHA's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, MHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. MHA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicated a demonstrable risk to safety and/or property

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

MHA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, MHA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose MHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, MHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

MHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, MHA will determine whether the behavior is related to the disability. If so, upon the family's request, MHA will determine whether alternative measures are appropriate as a reasonable accommodation. MHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

MHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATEDTO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT ORSTALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA), provides for public housing residents who are victims of domestic violence, dating violence, sexual assault or stalking. For general VAWA requirements and MHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or person under control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13].

Limits on VAWA Protections [24 CFR 5.2005(d) and (3), FR Notice 8/6/13]

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual abuse or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault or stalking providing that the MHA does not subject the victim to a more demanding standard than other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the MHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent* threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize MHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a difference unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

MHA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, MHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring

the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest MHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

MHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, MHA will request in writing that the individual submit documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

MHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases MHA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives MHA the explicit authority to bifurcate a lease, or to remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" [FR Notice 8/6/13] Moreover, HUD regulations impose on MHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming this authority is not necessary. Further, the authority supersedes any local, state, or other federal law to the contrary. However, if MHA chooses to exercise this authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that MHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07] [Notice PIH 2017-08].

MHA Policy

MHA will bifurcate a family's lease and terminate the tenancy of a family member if MHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, MHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to MHA by the victim in accordance with this section and section 16 – VII.D. MHA will also consider the factors in section 13.III.E. Upon such consideration, MHA

may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If MHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, MHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, MHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. MHA policy determines when MHA will conduct such checks.

MHA Policy

MHA will conduct criminal records checks when it has come to the attention of MHA, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

MHA may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if MHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if MHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, MHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

MHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, MHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of MHA notice, to dispute the accuracy and relevance of the information. If the family does not contact MHA to dispute

the information within that 10-business day period, MHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine MHA documents directly relevant to the termination or eviction. If MHA does not make the documents available for examination upon request by the tenant, MHA may not proceed with the eviction [24 CFR 996.4(m)]. Notices of lease termination must be provided in accessible formats to ensure effective communication for individuals with disabilities, and the notice must provide meaningful access for persons with LEP.

All notices of lease termination due to a tenant's failure to pay rent must also include:

- Instructions on how the tenant can cure the nonpayment of rent violation, including:
  - An itemized amount separated by month of alleged rent owed by the tenant;
  - Any other arrearages allowed by HUD and included in the lease separated by month; and
  - The date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;
- Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent; and
- In the event of a Presidential declaration of a national emergency, information as required by HUD.

For notices of lease termination due to a tenant's failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the lease.

HUD also suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

MHA Policy

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for the PHA's 504 coordinator.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

MHA Policy

When applicable, the notice will also state that the resident may request a remote hearing.

If MHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that MHA will provide technical assistance, if needed, before the hearing.

When MHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by MHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of MHA, or for a drug-related criminal activity on or off the premises.

MHA Policy

MHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the form HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in section 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The PHA must give written notice of lease termination of:

At lease 30 calendar days in the case of failure to pay rent, which will not be provided to tenants until after the day rent is due;

At least 10 calendar days or a reasonable period of time determined by MHA after considering the seriousness of the situation (but not to exceed 30 calendar days)

if the health and safety of other residents, MHA employees, or persons in the immediate vicinity is threatened or if any member of the household is engaging in

drug-related or violent criminal activity, or if any member of the household has been convicted of a felony.

For all other lease terminations MHA will give 30-days written notice, except that if a state or local law allows for a shorter notice period (for violations other than non-payment of rent), such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

MHA Policy

MHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provided to tenants until the day after the day rent is due. Any Notice to Vacate or Notice to Quit that is required by state or local law will be combined with the Notice of Lease Termination under this section.

MHA will give written notice of 10 calendar days from the date the tenant receives the notice, or some other reasonable period of time determined by MHA, after considering the seriousness of the situation (but not to exceed 30 calendar days), if the health and safety of other residents, MHA employees, or persons in the immediate vicinity is threatened, if any member of the household is engaging in drug-related or violent criminal activity, or if any member of the household has been convicted of a felony.

For all other lease terminations, MHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When MHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

MHA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the

following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with MHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for MHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. MHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

MHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, MHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, MHA will seek the assistance of the court to remove the family from the premises as per state and local law.

MHA may not proceed with an eviction action if MHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When MHA evicts an individual or family for criminal activity, including drug-related criminal activity, MHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

MHA Policy

A written record of every termination and/or eviction will be maintained by MHA at the development where the family was residing, and will contain the following information:

Name of resident, number and identification of unit occupied;

Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently;

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905);

Date and method of notifying the resident; Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – INITIAL NOTIFICATION FOR NPHOI FAMILY OPTION[1]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[1] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY INITIAL NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]

What if my family remains over-income in 24 consecutive months?

According to the Continued Occupancy Policy, your family may continue to reside in a public housing unit even if you remain over-income after 24 months. However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to stay in your unit after remaining over-income for 24 consecutive months, you will:

- Pay an "alternative non-public housing rent" (currently estimated at $_____)

> The alternative rent is adjusted annually and subject to change.

> You will receive a notification with more details on what to expect next if you decide to remain in a public housing unit after 24 consecutive months of being over-income.

- Need to sign a new lease for Non-Public Housing Over-Income (NPHOI) families.

> The NPHOI lease will need to be signed no later than 60 days after receiving notification of the end of the 24-month grace period or at the next lease renewal, whichever is sooner.

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-2: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – INITIAL NOTIFICATION FOR TERMINATE ONLY OPTION[2]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[2] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY INITIAL NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]

What if my family remains over-income for 24 consecutive months?

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than___ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after ____ *[restate date],* the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-3: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 12-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION[3]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[3] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY
12-MONTH NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

What if my family remains over-income in consecutive 12 months?

According to the Continued Occupancy Policy, your family may continue your tenancy even if you remain over-income for another 12 months (24 consecutive months total). However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to remain in a public housing unit after the 24 month grace period, you will:

- No longer be a public housing program participant and will therefore not be eligible to participate in the resident council or programs specifically for public housing residents.
- Pay an "alternative non-public housing rent" (currently estimated at $_____)
- Need to sign a new lease

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-4: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 12-MONTH NOTIFICATION FOR TERMINATE ONLY OPTION[4]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[4] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY
12-MONTH NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

What if my family remains over-income in consecutive 12 months?

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than___ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after ____ *[restate date],* ___ *[name of PHA]* will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-5: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 24-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION[5]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s),the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[5] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY
24-MONTH NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program. However, you do not have to move – see below for details.

What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible.

What about changes to my income?

Changes to your income after you receive this notice will not change our determination. Because your family has been over-income for 24 months, you are no longer eligible for assistance under the public housing program.

What do I need to do now?

According to the Continued Occupancy Policy, your family may continue your tenancy. However, because you will not receive assistance from the federal public housing program, your rent will be calculated differently.

If you choose to remain in a public housing unit, you will:

- Pay an "alternative non-public housing rent" (currently $_____)
- Need to sign a new lease within 60 days or at your next lease renewal (whichever is sooner)

If the lease is not signed within this time period, the PHA must terminate your tenancy by ____ *[no more than 6 months after this notification]*. However, per policy, ___ *[name of PHA]* may permit an over-income family to execute the lease after this period (up to 60 days), but before termination of the tenancy. In this case, the family must pay the total difference between the alternative non-public housing rent and your public housing rent dating back to the date when you were required to execute the lease.

If you choose to leave your unit, please inform us as soon as possible according to your existing lease.

To inform the PHA if you do not plan to remain in a public housing unit*: [Use this space to detail when and how and family can inform the PHA if they decline to stay in the unit.]*

[INSERT PHA CONTACT INFORMATION]

EXHIBIT 13-6: SAMPLE NOTICE FOR OVER-INCOME FAMILIES – 24-MONTH NOTIFICATION FOR TERMINATION ONLY OPTION[6]

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: *[This text is meant as instruction to the PHA.]*

[6] This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

OVER-INCOME FAMILY
24-MONTH NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that _____ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program.

What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible.

What about changes to my income?

Changes to your income after you receive this notice will not change our determination. If necessary, you may request an interim reexamination, but a decrease in income or rent will not make you eligible to remain. Because your family has been over-income for 24 consecutive months, you are no longer eligible for assistance under the public housing program.

What do I need to do now?

According to the Continued Occupancy Policy, your family cannot continue your tenancy. You must find other housing as soon as possible. Our policy is to allow families up to ____ *[up to 6 depending on PHA policy]* months to find other housing.

If your family continues to reside in the unit after ____ *[restate date],* the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[The following is an optional section where the PHA may include referral services to support a family in finding new housing.]

The following services are available to assist you:

[INSERT PHA CONTACT INFORMATION]

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to MHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not MHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When MHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses MHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under MHA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While MHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, MHA could make the informal hearing process available to applicants who wish to dispute other MHA actions that adversely affect them.

MHA Policy

MHA will only offer informal hearings to applicants for the purpose of disputing denials of admissions.

Notice of Denial [24 CFR 960.208(a)]

MHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the MHA decision, and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

MHA Policy

As applicable MHA's notice of denial will include information about required or requested informal hearings.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to MHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of MHA's notification of denial of admission.

MHA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

If the MHA informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing;

That MHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform MHA and MHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Conducting an Informal Hearing [PH Occ GB, p. 58]

MHA Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of MHA.

The person conducting the informal hearing will make a recommendation to

MHA, but MHA is responsible for making the final decision as to whether admission should be granted or denied.

All informal hearings will be recorded for the benefit of the parties involved, and the recorded testimony can, and will be used against a party in the event of future proceedings or evidence disputes. An applicant's refusal to allow the recording will be deemed a waiver by the applicant to proceed with the hearing.

Conducting Remote Informal Hearings

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

MHA Policy

MHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, MHA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. MHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings. If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote informal review, and the PHA should consider whether

postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Remote Informal Hearings [Notice PIH 2020-32]

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

MHA Policy

MHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to the scheduled remote hearing, MHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify MHA of any known barriers. MHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, MHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. MHA will scan and email copies of these documents to the MHA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

MHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

MHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Decision [PH Occ GB, p. 58]

MHA Policy

The MHA will notify the applicant of MHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, MHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in MHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The MHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts provide that there are grounds for denial, and the denial is required by HUD, MHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, MHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

MHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and MHA must consider such accommodations. MHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.
Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the MHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

MHA Policy

A decision against a family member, issued in accordance with the USCIS appeal process or the MHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advised the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518]

- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with MHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When MHA received notification that the USCUS secondary verification failed to confirm eligible immigration status, MHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide MHA will a copy of the written request for appeal and proof of mailing.

MHA Policy

MHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide MHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to MHA, of its decision. When the USCIS notifies MHA of the decision, MHA must notify the family of its right to request an informal hearing.

MHA Policy

MHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an

applicant family may request that MHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the MHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

MHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made of approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of MHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

> MHA Policy
> The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of MHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by MHA, and to confront and cross-examine all witnesses on whose testimony or information MHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. MHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. MHA may, but is not required to provide a transcript of the hearing.

MHA Policy:

Hearings will be recorded for the benefit of the parties involved, and the recorded testimony can, and will be used against a party in the event of future proceedings or evidence disputes. A family's refusal to allow the recording will be deemed a waiver by them to proceed with the hearing.

MHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

MHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents

MHA must retain for a minimum of 5 years the following documents that may have been submitted to MHA by the family, or provided to MHA as part of the USCIS appeal or the MHA informal hearing process.

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any MHA action or failure to act involving the lease or MHA policies which adversely affect their rights, duties, welfare, or status. MHA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

The MHA grievance procedure must be included in, or incorporated by reference in, the lease.

MHA Policy

The MHA grievance procedure will be incorporated by reference in the tenant lease.

MHA must provide at least 30 days' notice to tenants and resident organizations setting forth proposed changes in the MHA grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by the MHA before adoption of any changes to the grievance procedure by the MHA.

MHA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by MHA of any proposed changes in the MHA grievance procedure, to submit written comments to MHA.

MHA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

Grievance: Any dispute which a resident may have with respect to an MHA action or a failure to act in accordance with the individual resident's Lease or MHA regulations, which adversely affects the individual resident's rights, duties, welfare or status.

Complainant: Any resident whose grievance is presented to MHA or at the project management office.

Due Process Determination – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit

Expedited Grievance – a procedure established by MHA for any grievance or termination that involves:

- A health and safety violation that threatens the health, safety, or right to peaceful enjoyment of the premises by family members, other residents or employees of MHA, or any other non-criminal violation in which the notice period is less than 14 days (other than non-payment of rent)

Elements of due process: The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a state or local court:

(1) Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;

(2) Right of the resident to be represented by counsel;

(3) Opportunity for the resident to refute the evidence presented by MHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have;

(4) A decision on the merits.

Hearing Officer/Panel: an impartial person or persons selected by MHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.

Tenant: the adult person (or persons) (other than a live-in aide)

Who resides in the unit, and who executed the lease with MHA as lessee of the dwelling unit, or, if no such person now resides in the unit,

Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit

Resident Organization: An organization of residents, which includes any Resident Management Corporation and specifically includes the Resident Organization

14-III.C. APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of a MHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to MHA. It is not applicable to disputes between tenants not involving MHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of MHA.

MHA Policy

MHA is located in a HUD-declared due process state. Therefore, MHA will not offer grievance hearings for lease terminations involving criminal activity that threatens the

health, safety, or right to peaceful enjoyment of the premises of other residents or employees of MHA, or for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the MHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

MHA Policy

MHA will accept requests for an informal settlement of a grievance either orally or in writing (including emailed requests), to the MHA office within 10 business days of the grievable event. Within 10 business days of receipt of the request MHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

The informal settlement may be conducted remotely as required by MHA, or may be conducted remotely upon consideration of the request of the tenant. See 14-III.G for information on how and under what circumstances remote informal settlements may be conducted.

A family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of MHA documents no later than 12:00 p.m. on the business day prior to the hearing.

If a tenant fails to attend the scheduled meeting without prior notice, MHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in MHA's tenant file.

The summary must specify the names of the participant, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

MHA Policy

MHA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in MHA's tenant file.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

MHA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to MHA within 5 business days of the tenant's receipt of the summary of the informal settlement. If the grievance involves the removal of an alleged vicious or dangerous animal, the resident must first remove the animal from MHA property within the 5-business day period as a condition of obtaining a hearing. Failure to remove the animal as required will constitute the residents's waiver to request a hearing, and MHA's disposition of the grievance under the informal settlement process will become final.

If the complainant does not request a hearing, MHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest MHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenience to both the complainant and MHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate MHA official.

MHA Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and MHA.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote grievance hearing;

That the PHA will provide technical assistance prior to and during the hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, MHA may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.52(a)]

MHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- A health and safety violation that threatens the health, safety, or right to peaceful enjoyment of the premises by family members, other residents or employees of MHA, or any other non-criminal violation in which the notice period is less than 14 days (other than non-payment of rent).

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

MHA may adopt special procedures concerning expedited hearing, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

MHA Policy

MHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- A health and safety violation that threatens the health, safety, or right to peaceful enjoyment of the premises by family members, other residents or employees of MHA, or

- Any non-criminal violation in which the notice period is less than 14 days as allowed under state and local law (other than non-payment of rent)

The notice period and the time between the date of the termination notice and the proposed effective date of the termination should allow enough time for the grievance hearing process to be completed, whether it be a regular grievance hearing or an expedited grievance hearing (see Chapter 14).

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by MHA, other than the person who made or approved the MHA action under review, or a subordinate of such person. MHA must describe their policies for selection of a hearing offer in their lease.

MHA Policy

MHA grievance hearings will be conducted by a single hearing officer and not a panel.

MHA will select impartial hearing officers who do not work for the agency. These could include employees of other housing agencies in the area, retirees, legal professionals, or other community volunteers with experience in subsidized housing programs.

MHA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

14-III.G. REMOTE HEARINGS [Notice PIH 2020-32]

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

MHA Policy

MHA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, MHA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have child care or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. MHA will consider other reasonable requests for a remote hearing on a case-by-case basis.

Discovery of Document Before the Remote Hearing

MHA Policy

If the hearing will be conducted remotely, MHA will compile a hearing packet, consisting of all documents MHA intends to produce at the hearing. MHA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the MHA representative and retained by MHA.

If the hearing is to be conducted remotely, MHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. MHA will scan and email copies of these documents to the hearing officer and the MHA representative the same day they are received.

Documents will be shared electronically whenever possible.

Conducting Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

MHA Policy

MHA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, MHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify MHA of any known barriers. MHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

MHA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform. MHA will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing, this includes:

- The opportunity to examine before the grievance hearing any MHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If MHA does not make the document available for examination upon request by the complainant, MHA may not rely on such document at the grievance hearing.

  MHA Policy
  The tenant will be allowed to copy any documents related to the hearing at a cost of $.25 per page. There will be no charge for documents emailed by MHA. The family must request discovery of MHA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

  Hearings may be attended by the following applicable persons:

  MHA representative(s) and any witness for MHA
  The tenant and any witnesses for the tenant
  The tenant's counsel or other representative
  Any other person approved by MHA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.

- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by MHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information MHA or project management relies.

- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or MHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and MHA must be notified of the determination by the hearing officer/panel: Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest MHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

MHA Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the tenant appears within 15 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact MHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter MHA must sustain the burden of justifying the MHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer/panel. MHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

MHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses.

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the MHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If MHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine MHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of MHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

All hearing will be recorded for the benefit of the parties involved. The complainant or MHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

MHA Policy

All hearings will be recorded for the benefit of the hearing officer and parties involved, and the recorded testimony can, and will be used against a party in the event of future proceedings or evidence disputes. A complainant's refusal to allow the recording will be deemed a waiver by that party to proceed with the hearing.

If the complainant would like MHA to record the proceedings by audiotape, the request must be made to MHA by 12:00 p.m. on the business day prior to the hearing.

MHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

The MHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the MHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g))

MHA must comply with HUD's LEP Final Rule in proving language services throughout the grievance process.

14-III.I.. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and MHA. MHA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by MHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer [24 CFR 966.57(a)].

In rendering a decision, the hearing officer will consider the following matters:

MHA Notice to the Family: The hearing officer will determine if the reasons for MHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with MHA policy.

MHA Evidence to Support MHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support MHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and MHA policies. If the grounds for termination are not specified in the regulations or in compliance with MHA policies, then the decision of MHA will be overturned.

The hearing officer will issue a written decision to the family and MHA no later than 10

business days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant
Date, time and place of the hearing
Name of the hearing officer
Name of MHA representatives(s)
Name of the family representatives (if any)
Name of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. It will also include the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sough to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold MHA's decision.

Order: The hearing report will include a statement of whether MHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct MHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct MHA to restore the family's status.

Procedures for Further Hearing

MHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of MHA will

take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on MHA which must take the action, or refrain from taking the action cited in the decision unless the MHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern MHA action or failure to act in accordance with or involving the complainant's lease on MHA policies which adversely affect the complainant's rights, duties, welfare, or status; or

- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and MHA

MHA Policy

When MHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the MHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer, or Board of Commissioners in favor of MHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

MHA is committed to ensuring that funds made available to MHA are spent in accordance with HUD requirements.

This chapter covers HUD and MHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents MHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures MHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

MHA Policy

MHA anticipates that the vast majority of families and MHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that MHA's program is administered effectively and according to the highest ethical and legal standards, MHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

MHA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

MHA will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, MHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

MHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. MHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

MHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

MHA staff will be required to review and explain the contents of all HUD- and MHA-required forms prior to requesting family member signatures.

MHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key MHA forms and form letters that request information from a family member.

MHA will provide each MHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination MHA staff will explain any changes in HUD regulations or MHA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, MHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

MHA will employ a variety of methods to detect errors and program abuse, including:

MHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to MHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

MHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all MHAs that expend $750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of MHA activities and notifies MHA of errors and potential cases of program abuse.

MHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of MHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

MHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When MHA Will Investigate

MHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for MHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

MHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

MHA may investigate possible instances of error or abuse using all available MHA and public records. If necessary, MHA will require families sign consent forms for the release of additional information.

Analysis and Findings

MHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation MHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed MHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether MHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, MHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

MHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which MHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, MHA must promptly correct the tenant rent and any utility reimbursement prospectively.

MHA Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30 day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse MHA or MHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows MHA to use incorrect information provided by a third party.

Family Reimbursement to MHA

MHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. MHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, MHA will terminate the family's lease in accordance with the policies in Chapter 13. MHA will reimburse the family for any overpayment of rent.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to MHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to MHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to MHA Board of Commissioners, employees, contractors, or other MHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to MHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

MHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family MHA may, at its discretion, impose any of the following remedies.

- MHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to MHA).
- MHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- MHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- MHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. MHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of MHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of an MHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in MHA personnel policy.

MHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

The following policy is effective upon the PHA's HOTMA 102/104 compliance date:

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

MHA Policy

MHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

MHA Policy

Any of the following will be considered evidence of program abuse by MHA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to MHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of MHA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment, where the PHA knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo or hostile environment

15-II.D. CRIMINAL PROSECUTION

When MHA determines that program abuse by a family or MHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, MHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in six parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of MHA-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which MHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies MHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes MHA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

PHAs must establish allowances for MHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of MHA-furnished utilities [24 CFR 965.506].

MHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B. UTILITY ALLOWANCES

MHA must establish separate allowances for each utility and for each category of dwelling units MHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if MHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to MHA about establishing utility allowances.

Air-Conditioning

"If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible." [24 CFR 965.505(e)].

MHA Policy

MHA has not installed air-conditioning.

MHA AIR CONDITIONER POLICY

Starting in 2018 the air conditioner policy is being revised to include the following updates. Air conditioners that are properly installed in an acceptable window will be allowed year-round for Spring Brook, Spring Valley, and Hillside Heights.

Form MHA 352 must be completed and turned in to the Occupancy Department to request air conditioner installation. A $120.00 Excess Utility Fee will be charged per air conditioner (this includes both window and portable air conditioner units) per year regardless when the air conditioner is installed. The Excess Utility Fee must be paid in full by July 5th of each year. If the tenant fails to pay the Excess Utility Fee in full by July 5th of each year a $25.00 late fee will be applied to their account. If a tenant requests an air conditioner on or after July 5th the Excess Utility Fee of $120.00 has to be paid prior to installation of the air conditioner.

Maintenance staff will only install air conditioners free of charge that have not been previously installed, if the resident has a disability on file, or if the resident is elderly. All other air conditioner installations will include a maintenance charge. All window materials will be furnished free on new installations. The materials must be saved by the tenant. If the materials are not saved for upcoming years the tenant will be charged for replacement costs of the materials based on the current Maintenance & Excess Utility Charges Schedule. The air conditioner needs to be in front of the window and ready to be installed. If a tenant has recently purchased an air conditioner make sure that the air conditioner is removed from the box and is assembled correctly. Maintenance will not assemble air conditioners. Air conditioners CANNOT be installed in casement windows (crank out windows) or in egress (exit) windows, such as windows in bedrooms containing only one window. If a resident chooses to remove the air conditioner from the window for any reason other than replacement, the resident will be responsible for the reinstallation.

Upon completion of Form MHA 352 the Occupancy Department will initiate a work order for the air conditioner installation if necessary. All work orders will be processed in the order they are received considering the availability of maintenance personnel. Once the tenant has been placed on the list the installation will go according to the date Form MHA 352 was submitted to the office. Tenants with documented medical reasons will be given priority on the air conditioner installation list. If the tenant installs the air conditioner without completing Form MHA 352, the Excess Utility Fee is due immediately and a work order will be generated to make sure the air conditioner was installed correctly.

All air conditioner units (window and portable) must meet MHA approved guidelines (B.T.U. rating, 110 volt, size, weight, and shape). The air conditioner must be 10,000 B.T.U. or below starting January 1, 2009. If an extension cord is used for the air conditioner it must be rated for an air conditioner or maintenance will not be able to install the air conditioner until an extension cord that is rated for an air conditioner is provided.

Spring Valley residents: There is a receptacle in the apartment that is dedicated for the air

conditioner unit. The air conditioner unit has to be plugged into the dedicated receptacle. Extension cords are not allowed to be used with air conditioning units in Spring Valley.

*MHA is not responsible for the maintenance, operation, or repair of the tenant's air conditioner(s).

*MHA is not liable for any damages incurred to air conditioners during installation.

*MHA will not install air conditioners that are not safe (i.e. frayed cords, burnt plugs, air conditioners in need of internal cleaning that do not drain condensate water properly. If internal water damage from the air conditioner(s) causes damage to the wall or floor because the air conditioner unit wasn't draining properly the tenant will be responsible for all damages incurred.

Utility Allowance Revisions [24 CFR 965.507]

MHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505. The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR 965.507(a)].

MHA must revise its allowance for resident-purchased utilities if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account become effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)]

MHA Policy

Between annual reviews of utility allowances, MHA will only revise its utility allowance due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR MHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for MHA-furnished utilities where check meters have been installed, MHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit purchase basis or for stated blocks of excess consumption, and must be based on MHA's average utility rate. The basis for calculating the surcharges must be described in MHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in MHA's average utility rate are not subject to the advance notice requirements discussed under 16 – I.D.

For dwelling units served by MHA-furnished utilities where check meters have not been installed, MHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of MHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of MHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to MHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

MHA Policy

MHA does have MHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

MHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where MHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [24 CFR 8 and 100, PH Occ GB, p. 172]

See Chapter 2 for policies regarding the request and approval of reasonable accommodations. Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with information about the additional allowance required.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status [24 CFR 5.504]

This part discusses how MHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2015-13]

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, MHA may set flat rents at no less than 80 percent of the applicable small area FMR (SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or DAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. The PHA must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location

- Quality
- Unit size
- Unit type
- Age of property the unit
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA

- Utilities provided by the PHA and/or landlord for (comparable units in the market study)

The PHA must provide a corresponding key explaining the calculations used for determining the valuation for each factor.

PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2017-23 annually.

PHA's are now required to apply a utility allowance to flat rents. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, MHA must implement new flat rents as necessary based on changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, MHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

MHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, MHA will reduce flat rents to 80 percent of the current FMR/SAFMR/unadjusted rent.

Applying Flat Rents

MHA Policy

MHA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

Posting of Flat Rents

MHA Policy

MHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable MHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

MHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by MHA in accordance with this method.

PART III: FAMILY DEBTS TO MHA

16-III.A. OVERVIEW

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes MHA's policies for recovery of monies that have been underpaid by families.

MHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, MHA holds the family liable to return any underpayments to MHA.

MHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments. When a family refuses to repay monies owed to MHA, MHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil law suit

State debt recovery program

16-III.B. REPAYMENT POLICY

Family Debts to MHA

MHA Policy

Any amount due to MHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, MHA will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into An Agreement

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, MHA will terminate the family's tenancy.

MHA Policy

When a family refuses to repay monies owed to MHA, in addition to termination of program assistance, MHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

REPAYMENT PROCEDURE

If a current tenant owes Moline Housing Authority money due to costs of maintenance labor/ repairs, or fraud/unreported income charges, the tenant will have to pay the amount owed in a timely manner.

If the amount charged is under $50.00, the amount will be paid in full by the end of the second month of the charge.

If the amount charged is over $50.00, the amount may be divided into a twelve-month repayment plan. The tenant will sign a payment agreement with the MHA staff stating that they agree to pay the amount owed. Failure to pay may result in an eviction.

If the charges are still on the tenants account at move out, the tenant will have 60 days to pay the account in full. If the account is not paid in full, any balance will be written off as a bad debt, and sent to a debt collection agency selected by MHA.

Repayment Agreement [24 CFR 792.103]
The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines

Down Payment Requirement

MHA Policy

Prior to the execution of a repayment agreement, the family must pay 10 percent of the balance owed to MHA. If the family can provide evidence satisfactory to MHA that a down payment of 10 percent would impose an undue hardship, MHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

In reference to repayments the MHA shall take in consideration the following options:

Option 1: Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.

Amounts between $2,000 and $2,999 must be repaid within 30 months.

Amounts between $1,000 and $1,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months.

Any amounts exceeding $3,500 will be referred to the District Attorney's Office for prosecution.

Notice 2018-18 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

MHA Policy

If a family can provide evidence satisfactory to MHA that the threshold applicable to the family's debt would impose an undue hardship, MHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, MHA will consider all relevant information, including the following:

The amount owed by the family to MHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control

The family's current and potential income and expenses

The family's current family share, as calculated under 24 CFR 982.515

The family's history of meeting its financial responsibilities

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

MHA Policy

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

MHA Policy

All payments are due by the close of business (4:30 p.m. CST) on the 15th day of the month, regardless if the day is a holiday or weekend, and regardless if the MHA office is closed.

Non-Payment

MHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by MHA, MHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and MHA will terminate tenancy in accordance with the policies

in Chapter 13.

No Offer of Repayment Agreement

MHA Policy

MHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the Federal or State threshold for criminal prosecution.

Repayment Agreement Modification

MHA Policy

If a current repayment agreement is in effect, MHA may, but is not required to, modify the agreement to include additional charges that were incurred after the original agreement was executed provided the repayment agreement is current.

Repayment Agreements Terms

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice 2018-18 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which MHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family must not only pay to MHA the monthly payment amount specified in the agreement but must also pay to the MHA the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of MHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of MHA's properties **Maximum Score: 30** • The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of safe, habitable dwelling units. • To determine the physical condition of a PHA's properties, inspections are performed using the National Standards for the Inspection of Real Estate (NSPIRE). The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in MHA's public housing portfolio.
Indicator 2: Financial condition of the MHA's projects **Maximum Score: 25** • The objective of this indicator is to measure the financial condition of the MHA's public housing projects for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair. • A PHA's financial condition is determined by measuring each public housing project's performance in each of the following components: quick ratio, month's expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the MHA's projects
Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing MHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund
Maximum Score: 10

- The objective of this indicator is to measure how long it takes the MHA to obligate capital funds and to occupy units
- MHA's score for this indicator is measured at the MHA level and is based on the following subindicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the subindicators under each indicator. The MHA's indicator scores are based on a weighted average of the MHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under once or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].

- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a) (1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)]
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

MHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, MHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

16-V.B. RECORD RETENTION

MHA must keep the last three years of the Form HUD 50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101]

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

MHA Policy

MHA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

MHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

During the term of each public housing tenancy, and for at least four years thereafter, MHA will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, MHA will keep the following records for at least three years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents and the public housing maximum rent

Documentation supporting the establishment of utility allowances and surcharges

Documentation supporting PHAS scores

Accounts and other records supporting MHA budget and financial statements for

the program

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule

Other records as determined by MHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

MHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized MHA staff.

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

Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886-A, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or MHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System Security Procedures for Upfront Income Verification (UIV) Data.*

MHA Policy

Prior to utilizing HUD's EIV system, MHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

MHA may only disclose the criminal conviction records which MHA receives from a law

enforcement agency to officers or employees of MHA, or to authorized representatives of MHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

MHA must establish and implement a system of records management that ensures that any criminal record received by MHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to MHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

MHA must establish and implement a system of records management that ensures that any sex offender registration information received by MHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to MHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. MHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MHA receives a verification document that provides such information, MHA should not place this information in the tenant file. MHA should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and MHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16–VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13MHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

MHA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within five (5) business days of being so notified by any other medical health care professional. MHA must also report each known case of a child with an EBLL to the HUD field office.

MHA Policy

MHA will provide the public health department written notice of the name and address of any child identified as having an elevated lead level.

MHA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH)within five (5) business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and MHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and MHA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 3-IC and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-IB); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
    - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
    - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - The length of the relationship
    - The type of relationship
    - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term sexual assault means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directly at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The MHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

MHA Policy

MHA will post the following information regarding VAWA in its offices and on its web-site. It will also make the information readily available to anyone who requests it.

A copy of Form HUD-5380, Notice of Occupancy Rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of MHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

MHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-50066) at each of these three junctures.

MHA Policy

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2

MHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The MHA will also include such information in all notices of denial of assistance (see section 3-III.F).

MHA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The MHA will also include such information in all lease termination notices (see section 13-IV.D).

The MHA is not limited to providing VAWA information at the times specified in the above policy. If the MHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the MHA make alternative delivery arrangements that will not put the victim at risk.

MHA Policy

Whenever the MHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, MHA may decide not to send mail regarding VAWA protections to the victim's unit if MHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, MHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The MHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the MHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

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

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA 2005 final rule].

MHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

MHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, MHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by MHA will be in writing.

Once the victim provides documentation, MHA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the MHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the MHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The MHA must honor any court orders issued to protect the victim or to address the distribution of property.

MHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the MHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007 (e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, MHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If MHA does not receive third-party documentation within the required timeframe (and any extensions) MHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, MHA will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The MHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

MHA Policy

If the MHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, MHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the MHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the MHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

MHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, MHA will inform the victim before disclosure occurs so that

safety risks can be identified and addressed.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

[Insert Name of Housing Provider]

Notice of Occupancy Rights under the Violence Against Women Act[1]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

---

[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow Federal, State, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the PHA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your PHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your PHA may choose to require that you submit a form, or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

   OR

   You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the

conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

Confidentiality

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report your PHA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA].**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing

regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim: _____**

2. **Name of victim: _____**

3. **Your name (if different from victim's):_____**

4. **Name(s) of other family member(s) listed on the lease:_____**

_____

5. **Residence of victim: _____**

6. **Name of the accused perpetrator (if known and can be safely disclosed):_____**

_____

7. **Relationship of the accused perpetrator to the victim:_____**

8. **Date(s) and times(s) of incident(s) (if known):_____**

_____

10. **Location of incident(s):_____**

In your own words, briefly describe the incident(s):

_____

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and

you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Attachment: Certification form HUD-5382

[Insert name of covered housing provider]

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Public Housing Program

Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[3] the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. [4] The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the

[3]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4]Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also

assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Public Housing (PH) Program

If you are a public housing resident and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the PHA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of

the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's)_____

3. Name(s) of other family member(s) listed on the lease:_____

_____

4. Name(s) of other family member(s) who would transfer with the victim:_____

_____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim:_____

7. Name of the accused perpetrator (if known and can be safely disclosed):_____

8. Relationship of the accused perpetrator to the victim:_____

9. Date(s), Time(s) and location(s) of incident(s):_____

_____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

_____

_____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

APPENDIX A

INCOME LIMITS

The Department of Housing and Urban Development annually calculates the estimate of median family income for every area of the country. These estimates are used to calculate income limits based on the number of persons in the household. When the annual income limits are published, MHA will utilize the updated information. For detailed information, please contact the MHA office at 309-764-1819.

APPENDIX B

UTILITY ALLOWANCES

Residents with individualized utility meter(s) shall be required to pay their own utility bills as they become due in accordance with Code of Federal Regulations. Affected residents/units shall receive monthly utility allowance which shall be dedicated from the rent accordingly. The Moline Housing Authority shall develop a utility allowance schedule for each unit size respectively. The utility allowance will be reviewed and adjusted annually, as needed, and will take effect on the first day of the MHA annual fiscal year, April 1. Changes to each family's utility allowance will take effect on the family's next annual recertification after the MHA fiscal year begins.

APPENDIX C

FLAT RENTS

The Moline Housing Authority's flat rents are established according to current market studies and/or Rent Reasonableness. New Flat Rents take effect on the first day of MHA's annual fiscal year, April 1. The Flat Rents will be reviewed and adjusted annually, as needed. Changes to each family's Flat Rent will take effect on the family's next annual recertification on, or after April 1. Specifics about the new Flat Rents are available by contacting MHA's management office.

APPENDIX D

FRAUD

FRAUD

If the PHA has reason to believe that a family may have (or had before participating in the public housing programs) committed fraud, bribery, or other corrupt or criminal acts the PHA will take action to determine whether there has been program abuse. Once the PHA determines that fraud has occurred and decides to terminate the lease due to fraud, the PHA will provide the family with a thirty (30) day Notice to Evict. The PHA may require repayment by the family. Further, the PHA shall refer all fraud cases to the Regional Inspector General for Investigation (RIGI) or to local or state prosecutors with a copy to RIGI for investigation and possible criminal prosecution.

The Housing Authority considers the misrepresentation of income and family circumstances to be a serious lease and policy violation as well as a crime and will take appropriate action if apparent fraud is discovered.

Specifically:

I. An applicant family who has misrepresented income or family circumstances may be declared ineligible for housing assistance.

II. If any examination of the tenant's file discloses that the tenant made any misrepresentation (at the time of admission or any previous reexamination date) which resulted in his/her being classified as eligible when in fact he/she was ineligible, the tenant may be required to vacate the apartment even though he/she may be currently eligible.

III. A tenant family who has made misrepresentation of income or family circumstances is subject to both eviction and being declared ineligible for future housing assistance.

IV. If it is found that the tenant's misrepresentations resulted in his/her paying a lower Tenant Rent than he/she should have paid, he/she will be required to pay the difference between rent owed and the amount that should have been paid. This amount shall be paid whether or not the tenant remains in occupancy, but failure to pay under terms established by the Housing Authority shall always result in immediate termination of the lease. The Housing Authority reserves the right to demand full payment within seven days.

V. The Housing Authority shall report apparent cases of tenant or applicant fraud to the appropriate government agency. It shall be the policy of the PHA to press state and Federal authorities for prosecution of cases which, in the Housing Authority's judgment, appear to constitute willful and deliberate misrepresentation.

APPENDIX E

RENT POLICY

RENT POLICY

I. Minimum Rental Amount

The PHA has established a minimum Total Tenant payment of $50.00 per month.

11. Rent Collection

A. Rent is due on the first of each month and is considered late if not paid by the close of business (4:30 p.m. CST) on the fifth (5th) day of the month.

B. A 30-Day Notice of Termination will be served on the tenant on the sixth (6th) day of the month if rent is not paid. If the total rental payment due is not paid within thirty (30) days, the PHA will issue an unlawful detainer and file in court for all monies due and for possession of the unit. After the 30th day, MHA is not required to accept a rent payment from the resident. Should MHA and the resident wish to settle the suit out of court, resident payment shall include all past due rent, late fees, court filing fees, and other reasonable costs associated with the filing of the eviction.

C A late charge in the amount of $25.00 will be added to the monthly rental payment for any rent not paid by the close of business (4:30 p.m. CST) on the fifth (5th) day of the month.

III. Repayment Policy

Family Debts to MHA

Any amount due to MHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, MHA may offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, MHA will terminate the family's tenancy in accordance with the policies in Chapter 13. MHA will also pursue other modes of collection.

REPAYMENT PROCEDURE

If a current tenant owes Moline Housing Authority money due to costs of maintenance labor/ repairs, or fraud/unreported income charges, the tenant will have to pay the amount owed in a timely manner. Repayment agreements will not be allowed on amounts owned for current or past due rent. Exceptions may be made on a case-by-cae basis for retro rent charges and at the discretion of the Executive Director.

If the amount charged is under $50.00, the amount will be paid in full by the end of the second month of the charge.

If the amount charged is over $50.00, the amount may be divided into a twelve-month repayment plan. The tenant will sign a payment agreement with the Housing Manager(s) stating that they agree to pay the amount owed. Failure to pay may result in an eviction.

If the charges are still on the tenants account at move out, the tenant will have 60 days to pay the account in full. If the account is not paid in full, any balance will be written off as a bad debt, and sent to a debt collection agency selected by MHA.

Repayment Agreement Guidelines

Down Payment Requirement

Prior to the execution of a repayment agreement, the family must pay 10 percent of the balance owed to MHA. If the family can provide evidence satisfactory to MHA that a down payment of 10 percent would impose an undue hardship, MHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

In reference to repayments the MHA shall take in consideration the following options:

Option 1: Amounts between $3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
Amounts between $2,000 and $2,999 must be repaid within 30 months.
Amounts between $1,000 and $1,999 must be repaid within 24 months.
Amounts under $1,000 must be repaid within 12 months. Any amounts exceeding $3,500 will be referred to the District Attorney's Office for prosecution.

Option 2: Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].
If a family can provide evidence satisfactory to MHA that the threshold applicable to the family's debt would impose an undue hardship, MHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, MHA will consider all relevant information, including the following:

- the amount owed by the family to MHA
- the reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- the family's current and potential income and expenses
- the family's current family share, as calculated under 24 CFR 982.515
- the family's history of meeting its financial responsibilities

Execution of the Agreement

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

All payments are due by the close of business (4:30 p.m. CST) on the 15th day of the month.

Non-Payment

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by MHA, MHA will send the family a delinquency notice

giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and MHA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

MHA will not enter into a repayment agreement if the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

Repayment Agreement Modification

If a current repayment agreement is in effect MHA may modify the agreement to include additional charges that were incurred after the original agreement was executed, provided the repayment agreement is current.

IV. Vacated Tenants

Vacated tenants will have sixty (60) days from their vacate date to pay the balance owed to MHA if the balance is greater than the tenant's security deposit. The tenant must make arrangements to pay the balance owed within sixty (60) days of vacating the unit. Accounts will be reported to the Credit Bureau and collection action will be taken after the expiration of this time period.

V. Terms and Conditions of Payment of Security Deposits

Prior to lease signing, the Housing Authority must receive full payment of the security deposit. Where the family moves in on other than the first of the month, the rent will be pro-rated for that month but the full security deposit will still be due at time of lease execution.

The PHA will not allow admission or the keeping of pets except when the applicant has completed and signed the Housing Authority's Pet Policy and the Pet Lease Addendum, including the payment of a pet deposit fordogs and cats.

VI. Terms and Conditions of Other Charges in Addition to Rent

The resident agrees to pay for all repairs made to the unit due to resident damage or neglect. The resident must pay such charges. Such charges will be made based on actual cost of labor and materials or a schedule of maintenance charges.

In the event of damages discovered at move-out, the family's security deposit will be reduced by the amount necessary to execute repairs above "normal wear and tear". Any remaining balance will be refunded to the resident under the following conditions:

A. The resident leaves a forwarding address or makes arrangements to pick up the deposit in person.

B. The resident owes no other charges to MHA for rent, excess utility consumption, late fees, etc.

C. The remaining balance will be paid within thirty (30) days of move-out if there is no damage to the unit.

VII. Exemption for Hardship Circumstances

The Housing Authority shall immediately grant an exemption from application of the minimum monthly rental amount to any family unable to pay such amount because of financial hardship, which shall include situations in which:

A. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

B. The family would be evicted as a result of the imposition of the minimum rent requirement;

C. The income of the family has decreased because of changed circumstances, including loss of employment;

D. A death in the family has occurred.

If a resident request a hardship exemption and the Housing Authority reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident shall not be evicted during the 90-day period for non-payment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the Housing Authority shall retroactively exempt the resident from applicability of the minimum rent requirement for such 90-day period.

VII. Family Choice of Rental Payment

The Housing Authority shall provide two (2) rent options for any public housing dwelling unit owned, assisted, or operated by the Housing Authority:

A. Flat Rents: The flat rental amount for the dwelling unit shall be based on the rental value of the unit, as determined by the Housing Authority; or

B. Income Based Rents: The monthly rental amount shall not exceed (up to) 30% of monthly-adjusted income. Income Based Rents shall not be less than the minimum rental amount.

IX. Switching Rent Determination Methods Because of Hardship Circumstances

In the case of a family that has elected to pay rent in the amount equal to the Flat Rent for the dwelling unit, the Housing Authority shall immediately provide for the family to pay rent in the amount equal to Income Based Rent during the period for which such election was made upon a determination that the family is unable to pay the amount determined because of financial hardship, including:

A. Situations in which the income of the family has decreased because of changed circumstances, loss or reduction of employment, death in the family, and reduction in or loss of income or other assistance;

B. An increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; or,

C. Such other situations as may be determined by the Housing Authority.

Families switching rent determination method because of hardship circumstances shall be limited to one (1) rent switch within a twelve- (12) month period. Such rent switches are subject to interim reexamination provisions as detailed in this policy.

If the family's income increases before the annual reexamination date, the families cannot be placed back on flat rents until the next annual reexamination.

X. Encouragement of Self-Sufficiency

It is the policy of the Housing Authority to encourage and reward employment and economic self-sufficiency. As such, the Housing Authority shall provide for flat rent to allow a family's rent payment to be capped so that they can budget and save.

XI. Treatment of Income Changes Resulting from Welfare Program Requirements

This section applies to families that receive benefits for welfare or public assistance from a state or other public agency under a program for which the federal, state, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program.

A. Decreases in Income for Failure to Comply

For families whose welfare or public assistance benefits are reduced because of failure of any family member to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent shall not be decreased.

B. Fraud

For families whose welfare or public assistance benefits are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the family as a monthly contribution toward rent shall not be decreased, during the period of reduction, as a result of any decrease in income of the family, to the extent that the decrease was the result of benefit reduction due to fraud.

C. Reduction Based on Time Limit for Assistance

The amount required to be paid as a monthly contribution toward rent by a family whose welfare or public assistance benefits are reduced as a result of the expiration of a lifetime time limit for a family, and not as a result of failure to comply with program requirements, shall be decreased, during the period of reduction, as a result of any decrease in income of the family, to the extent that the decrease was the result of benefit reduction due to expiration of a lifetime time limit.

D. Notice

The Housing Authority shall obtain written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced and cause for reduction prior to redetermination of monthly contribution toward rent.

APPENDIX F

BARRED and BAN POLICY

MOLINE HOUSING AUTHORITY BAR POLICY

In accordance with 24 CFR 881.101, 960.205 and 966.4 it is the responsibility of the Moline Housing Authority hereafter referred to as the Housing Authority, to provide safe, healthy and peaceful housing to the Housing Authority residents. To ensure that safe, healthy and peaceful housing is provided to residents, the Housing Authority is obligated to prohibit any individual or group of individuals that interfere with the residents' rights.

The Housing Authority further finds that the perpetrators of such unlawful, improper or otherwise offensive conduct should not be permitted future entry upon, and access to any property of the Housing Authority, and that a reasonable policy should be established and disbursed whereby a perpetrator can be barred from Housing Authority property, and that the barring of such individuals from Housing Authority property, in accordance with due process and equal protection of law, is the best, most effective and fairest means by which the Housing Authority can address and deter problems and dangers.

I. **APPLICABILITY:** Housing Authority property refers to all property owned, leased or managed by the Housing Authority, directly or indirectly.

II. **RESPONSIBILITY FOR DETERMINATION TO BAR OR BAN:** It shall be the responsibility of the Housing Authority and/or its assigned agents to determine whether an individual or group of individuals is/are to be barred or banned from the Housing Authority property.

III. **REASONS FOR BARRING OR BANNING:** Cause for barring or banning an individual or group of individuals from the property of the Housing Authority shall include the following:

1) The sale, manufacture, distribution, use or possession of an illegal drug or drug paraphernalia on or near Housing Authority property.

2) The use of, threatened use of, displaying of, or possession of weapons, firearms or explosives on or near Housing Authority property. The use and possession of firearms and weapons shall not apply to police or law enforcement.

3) Inflicting bodily harm to or the threat of bodily harm to a resident, employee or authorized agent of the Housing Authority, or to police, law enforcement or to any individual or group of individuals on or near Housing Authority property.

4) The willful destruction of or damages to, the property/premises of Housing Authority residents, employees or any other individual or group of individuals on or near Housing Authority property.

5) The violation of a previously imposed notice of bar or any term or condition of that bar notice. Violation of said notice will result in a subsequent bar issued that will commence immediately terminating the previous bar issued.

6) Other criminal activity that threatens the health, safety or right to peaceful enjoyment of the property/premises of residents, guests or any other individual or group of individuals on or near Housing Authority property or employees of the Housing Authority. This includes but is not limited to: criminal trespass, disorderly conduct, and public intoxication.

7) IV. **PROCEDURE TO BAR:**

1. Determination;

When the Housing Authority receives a complaint or report, from a resident, employee, police officer or other, the Executive Director, or other designated agent of the authority shall, based upon the information available, make determinations as to whether there is sufficient reason to believe the alleged offense occurred and that the perpetrator has been adequately identified. Based upon those two determinations, the Executive Director, or other designated agent, may issue a notice of bar, to exclude the alleged perpetrator from Housing Authority premises, provided the notice conforms to all material respects to the requirements of this procedure.

V. NOTIFICATION OF BAR: The Housing Authority shall notify an individual or group of individuals of the decision to bar them from Housing Authority property in the following manner:

1. **NAME:** The notice shall be directed to the person or persons or group to be barred;

2. **COMPLAINT:** The notice shall describe the alleged objectionable conduct and give the date, as nearly as possible, of the alleged occurrence:

3. **RIGHTS:** The notice shall inform the recipient of their right(s) to object to the bar action, the procedure to object the bar action, the procedure to make such objection and to appeal an adverse decision;

4. **EFFECTIVE DATE AND SERVICE OF BAR:** The notice of bar provided, shall be served and deemed effective upon the individual or group of individuals to whom it is directed, by personally serving a true copy to the individual or group of individuals, or by Certified Restricted Return Receipt mail, or by direct oral communication with the perpetrator, by any employee of the Housing Authority, any law enforcement officer or any official process server.

RETURN OF SERVICE: The person serving the notice of bar shall certify service by endorsing their name as a server and the date and time the notice was served or by return of the certified restricted return receipt mail or by documenting the oral notice by time, place, and witnesses and any other relevant information. The notice shall be returned to the Housing Authority for documentation. Failure to return the document does not make the notice of bar invalid.

6. **FORM AND EFFECT OF WRITTEN NOTICE:** The notice shall be in writing, signed by the Executive Director or other person duly acting for the Housing Authority. The notice shall inform the alleged perpetrator that he, she, or they may not enter upon

Housing Authority property and premises within any project managed by the Moline Housing Authority, specifically identifying Spring Brook Courts, located at 4141 11 Avenue A, Moline Illinois, Spring Valley,

located at 1150 41 Street, Moline Illinois and Hillside Heights located at 825 17 Street, Moline Illinois, and that if the perpetrator shall enter upon any of those premises during the term of the bar, such entry shall be deemed to be criminal trespass and will subject the person(s) to criminal prosecution.

7 **FORM AND EFFECT OF ORAL NOTICE:** If notice is given orally the information provided in V.6. and VII shall be given and documented thereafter and returned to the Housing Authority describing the oral notice by time, place, individual's present and other information given at the time of the oral notice.

VI. BAN AND NOTICE OF BAN. If the Moline Housing Authority is unable to perfect a bar on an alleged offender but notifies a resident that such offender is banned from MHA property, it shall constitute notice to said resident that such offender is effectively barred or banned. If, after such notice, the resident invites or voluntarily engages with the barred or banned individual on MHA property, it shall be deemed a serious lease violation and grounds for termination of the resident's lease.

VII. EFFECT AND TERM OF BAR OR BAN:

1. No person shall enter upon the property or premises of any using project, managed by the Moline Housing Authority, after the effective date of the notice of bar duly served upon such person, or such later date that the bar or ban becomes effective.

2. The term of the bar or ban shall be six months, two years, five years or lifetime depending on the offense and circumstances of the situation at the discretion of the Executive Director or assigned agent.

3. The decision to terminate, shorten, condition, or modify the bar or ban, shall be within the sound discretion of the Executive Director, or appointee, taking into account the circumstances as they then exist, probable risks to the persons of residents, employees, law enforcement officers and to property of residents and the Housing Authority, and the over-all effect upon law enforcement, safety, and order in any of the Housing Authority projects, any commitments made by persons barred or residents, the apparent sincerity and feasibility thereof, and any hardships occasioned by the bar or ban.

4. When circumstances have so changed that a bar or ban is of no further practical value to promoting safe and decent conditions to the residents, the Housing Authority, upon its own will, may, through its Executive Director or designated agent, terminate the bar or ban against any individual.

VIII. VIOLATION OF BARRED NOTICE: The Housing Authority shall consider the violation of the barred action as criminal trespass and the offender shall be subject to criminal prosecution.

IX. GRIEVANCE PROCEDURE FOR BARRED OR BANNED INDIVIDUALS:

The notification to bar or ban an individual from Housing Authority property shall contain the reason for barring or banning the individual and a notice that the barred or banned individual has 14 days from the date of the issuance of the notification to appeal. If a notification cannot be served on a barred or banned individual because an address for the individual is unknown, it shall be left with the Moline Housing Authority management office for 10 business days for pickup by the banned or barred individual.

1) Individuals who have been barred or banned must file their request to appeal in writing at the Housing Authority's main office located at 4141 11 Avenue A, Moline IL 61265, either in person or by mail.

2) The Executive Director of the Housing Authority or an assigned agent or agents shall schedule and hold an informal conference with the barred or banned individual within 14 days from the receipt of the written request to appeal.

3) The Executive Director of the Housing Authority or an assigned agent or agents shall notify the barred or banned individual of the decision concerning his or her appeal within 14 days of the informal conference.

4) In the event of any unfavorable ruling or appeal the barred or banned individual shall remain barred or banned from the Housing Authority property. For those individuals that are barred or banned for a six-month term, there is only the initial appeal request allowed, all others may file a written request for appeal at the end of 12 months from the initial appeal and every 12 months thereafter.

X. GRIEVANCE PROCEDURE FOR BARRED INDIVIDUALS - 1 2 - MONTH APPEAL:

1) Individuals barred from Housing Authority property may file a written request with the Housing Authority for an Informal Conference to appeal the continuation of the action barring him or her from Housing Authority property.

2) An appeal may be made any time after a 12-month period from the later of the date of issuance of the barred notification, the date of the informal conference for the initial appeal or the date of the informal conference for the latest 12-month appeal.

3) If the barred action is overturned.as the result of an appeal, the individual that was barred from Housing Authority property shall be allowed access to the Housing Authority property on a probationary basis for a six (6) month period of time.

4) If the barred individual participates in any of the actions in Section III, "Reasons for Barring", during the six (6) months probationary period, he or she will be immediately barred from Housing Authority property. He or she will not be eligible for an appeal of the action for 12 months from the date of the latest notification of barring.

5) If the barred individual does not participate in any of the actions detailed in Section III, the Housing Authority will no longer restrict this individual's access to Housing Authority property unless future actions so warrant.

XI. GRIEVANCE PROCEDURE FOR BARRED INDIVIDUALS - HARDSHIP APPEAL:

1. Immediate members of the barred individual's family, who are tenants of the Housing Authority, may file a Hardship Appeal in writing requesting that the barred individual be allowed to visit for the following special reasons in advance of the anticipated event or occasion (special consideration will be given for a funeral or serious family illness):

    a. Parental visits to children.

    b. Celebrations, such as weddings, birthdays, anniversaries, etc.

    c. Funerals.

    d. Serious family illness.

2. Written permission must be obtained from the Housing Authority prior to the visit.

3. The barred individual and tenant(s) with whom he/she is visiting must have an original signed letter from a staff member of the Housing Authority granting permission for the visit. This letter must be on their person at all times while on Housing Authority property.

4. Visiting barred individuals must not participate in any of the actions detailed in Section III. "Reasons for Barring". Participating in any of these actions by the visiting barred individual will result in the loss of future hardship visitation privileges and any and all privileges to appeal and/or additional barring from the date of the offense.

XII. NOTIFICATION TO RESIDENTS: When a person is barred from Housing Authority property pursuant to this policy, the name of such individual or individuals shall be disseminated to the residents through the means of letters, flyers and/or newsletters.

XIII. POSTING OF NAMES: The names of individuals barred under this policy shall be posted after the effective date of bar, at each of the Housing Authority three property locations along with the effective date and termination date of the bar. Within a reasonable time after a bar is terminated, the notice or list shall be reviewed, updated and disseminated to the residents.

XI. **XIV. SEVERABILITY:** That if any provision of this Policy shall under any circumstances be deemed invalid or inoperative, this agreement shall be construed with the invalid or inoperative provision deleted, and all other terms herein shall be construed and enforced accordingly.

Hardship Appeal for Visitation Privileges for Barred Individual

Head of Household: _____

Address: _____ Phone: _____

I am hereby requesting permission for the following barred individual to visit with me in my Housing Authority home:

Name of Barred Individual: _____

Current Address: _____ Phone: _____

Social Security: _____ Date of Birth: _____

What is your relationship to the barred individual: _____

Date and Time Period of Requested Visit: _____

If this request is for parental visitation of your children, you must indicate the names and dates of birth of the children. Also, by your signature below, you certify that the barred individual is the actual father and/or mother of the children named on this form.

Reason or the Visit: _____

_____

_____

Pending a written decision of the Housing Authority, we understand that the originally issued barred notice remains in effect. Violation of the barred notice or any other written agreements will result in immediate expulsion of the barred individual and possible eviction of the Housing Authority resident.

_____ _____

Signature: Housing Authority Head of Household Date Signed

_____ _____

Signature: Barred Individual Requesting Visitations Date Signed

APPENDIX G

REASONABLE ACCOMMODATIONS

Verification of a Request for Accommodation

All requests for accommodation or modification of a unit will be verified with a reliable, knowledgeable professional.

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability.

MHA may require verification from a knowledgeable professional when a request for a home visit recertification is submitted.

Reasonable Accommodation

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

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

Application Process

For purposes of this section, the MHA will make the following types of accommodations to persons with disabilities to facilitated the application process:

- Permitting the submission of applications or certification forms via mail.
- Permitting an authorized designee to participate in the application or certification process.

Recertification by Mail

MHA will permit the family to submit annual and interim recertification forms through the mail when MHA has determined that the request is necessary as a reasonable accommodation.

The mail-in packet will include notice to the family of MHA's deadline for returning the completed forms to MHA.

If there is more than one adult member in the household, but only one is disabled, recertifications will not be processed though the mail. In such cases, the able adult family members will come in for the appointment and then take the necessary forms home to the member with a disability for completion and signature.

Home Visits

When requested and where the need for reasonable accommodation has been established, MHA will conduct home visits to residents to conduct annual and interim recertifications.

Requests for home visit recertifications must be received by MHA at least 7 business days before the scheduled appointment date in order for the request to be considered.

MHA will not consider home visit recertifications that are requested after the scheduled appointment has been missed.

Other Accommodations

MHA utilizes organizations that provide assistance for hearing- and sight-impaired persons when needed.

Families will be offered an accessible unit, upon request by the family, when an accessible unit is available.

MHA will refer families who have persons with disabilities to agencies in the community that offer services to persons with disabilities.

Translation of Documents

In determining whether it is feasible to translate documents into other languages, MHA will consider the following factors:

- Estimated cost to MHA per client of translation of English written documents into the other language.
- The availability of local organizations to provide translation services to non-English speaking families.

Language Assistance

MHA will refer persons with literacy barriers to appropriate community literacy programs for assistance with the completion of the application and certification process.

Moline Housing Authority
Reasonable Accommodations Policy and Procedures

TABLE OF CONTENTS

INTRODUCTION 1

PART A. POLICY 1

Section 1. Definitions 1

Section 2. Policy Statement 2

Section 3. Purpose 2

Section 4. Authority 2

Section 5. Monitoring and Enforcement 3

Section 6. General Principles for Providing Reasonable Accommodation 3

Section 7. Amendment 4

Section 8. Staff Training 4

PART B. PROCEDURES 4

Procedure #1 – Communication with Applicants and Residents 4

Procedure #2 – Sequence for Making Decisions 5

Procedure #3 – Guidelines for Determining Reasonableness 6

ATTACHMENT TO PROCEDURES 7

Attachment #1 – Request for a Reasonable Accommodation

Attachment #2 – Request for Information or Verification

Attachment #3 – Your Right to Request a Reasonable Accommodation

MOLINE HOUSING AUTHORITY

REASONABLE ACCOMMODATIONS POLICY

& PROCEDURES IN PUBLIC HOUSING

INTRODUCTION

This Reasonable Accommodation Policy and Procedure compromised of Part A and Part B sets forth the policy and procedures of the Moline Housing Authority in connection with making reasonable accommodations for qualified applicants or residents with disabilities for participation in MHA public housing programs and activities. A copy of this policy and procedures is posted in the main office of the MHA located in Spring Brook Courts, and in the offices located at each MHA development. Additionally, a copy of the Reasonable Accommodation Policy and Implementation Procedures may be obtained upon verbal or written request at the Moline Housing Authority main office.

PART A. POLICY

SECTION 1. Definitions

a. The term “ADA”: shall mean the Americans with Disabilities Act.

b. The term “FHA” shall mean the Fair Housing Act of 1968.

The term “MHA” shall mean the Moline Housing Authority.

The phrase “individuals with disabilities” shall have the same meaning as the term “individuals with handicaps” under 24 CFR 8.3 as follows:

24 CFR 8.3 Definitions:

> “Individuals with handicaps” means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.

The term “Policy” shall mean Part A of the Reasonable Accommodation Policy and Procedure, as adopted by the Board of Commissioners of the Moline Housing Authority.

c. The term “Procedures” shall mean Part B of the Reasonable Accommodations Policy Procedure, as may be revised and amended from time to time.

d. The term “reasonable accommodation” means a modification or change in MHA Rules, policies, practices, or services that will provide the opportunity to participate in MHA programs and services and to meet essential requirements of the tenancy to an otherwise eligible individual with a disability.

SECTION 2. Policy Statement

MHA is committed to ensuring that its policies and practices do not deny individuals with disabilities the opportunity to participate in, or benefit from, not otherwise discriminate against individuals with disabilities in connection with, the operation of MHA housing services or programs, solely on the basis of such disabilities. Therefore, if an individual with a disability requires an accommodation, such as an accessible feature or modification to MHA policy, MHA will provide such accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial or administrative burden. In such a case, MHA will make another accommodation that would not result in a financial or administrative burden.

SECTION 3. Purpose

This policy is intended to:

- communicate MHA's position regarding reasonable accommodations for persons with disabilities in connection with the agency's housing program services and policies;

- establish a procedural guide for implementing such policy; and

- comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by MHA.

SECTION 4. Authority

The requirements of this policy are based upon the following statutes or regulations:

- Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) prohibits discrimination on the basis of disability status and state that:

- "No qualified individual with handicaps shall, solely on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department."

- The Fair Housing Act (FHA) prohibits discrimination in the sale, rental and financing of dwellings. The FHA requires reasonable accommodations in rules, policies, practices, services and reasonable modifications to dwelling units and public common areas;

- Title II of the Americans with Disabilities Act (ADA), prohibits discrimination on the basis of disability status by public entities. Except as provided in 35.102 (b), of the 28 CFR Part 35, the ADA applies to all services, programs and activities provided or made available by public entities (State and Local Governments); and

- Part 8, of the Code of Federal Regulations, Title 24, Housing and Urban Development, entitled Non-Discrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development applies to recipients of federal funds and implements the requirements of the Rehabilitation Act.

SECTION 5. Monitoring and Enforcement

The Chicago Housing and Urban Development Fair Housing and Equal Opportunity Office (FH&EO Office) is responsible for monitoring MHA compliance with, and enforcing the requirements under this policy. Questions regarding this policy, its interpretation or implementation should be made by contacting that office in writing, or in person by appointment, at 77 W. Jackson Blvd., Chicago, IL 60604, or by calling the field office at 312-355-1915. The FH&EO Office may require the submission of data from the MHA public housing developments in order to evaluate and document MHA compliance with this policy.

SECTION 6. General Principles For Providing Reasonable Accommodations

Listed below are general principles which provide a foundation for the policy and which MHA staff should apply when responding to requests for reasonable accommodations within all MHA housing programs:

6.1 It is presumed that the individual with a disability is usually knowledgeable of the appropriate types of, and methods of providing, reasonable accommodations needed when making a request. However, MHA reserves the right to investigate and offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation.

6.2 The procedure for evaluation and responding to requests for reasonable accommodation relies on a cooperative relationship between MHA and the applicant/tenant. The process is not adversarial.

6.3 MHA shall inform all applicants and tenants of alternative forms of communication. The request form is designed to assist MHA and our applicants/tenants. If an applicant/tenant does not, or cannot use the request form, MHA will still respond to the request for an accommodation. The applicant/tenant may also request assistance with the request form or such applicant/tenant may request that the form be provided in an equally effective format or means of communication.

6.4 If the accommodation is reasonable (see Procedure 3 below), MHA will grant it.

6.5 In accordance with Procedure 3, MHA will grant the request for a reasonable accommodation only to the extent that an undue financial and administrative burden in not created thereby.

6.6 All written documents required by or as a result of this policy must contain plain language and be in appropriate alternative formats in order to communicate information and decisions to the person requesting the accommodation.

6.7 Any required meetings with a person with a disability will be held in an accessible location.

SECTION 7. Amendment

7.1 Policy. The policy may be amended only by resolution of the Board of Commissioners of the Moline Housing Authority.

7.2 Procedures. The procedures may be amended within the scope of the Policy by the Executive Director of the Moline Housing Authority.

7.3 Legal Compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

SECTION 8. Staff Training

The Executive Director of the Moline Housing Authority will direct appropriate staff to ensure that training sessions are held concerning the Policy and Procedures and all applicable Federal, State and local requirements regarding reasonable accommodations.

PART B. Procedures

Procedure #1 – Communication With Applicants And Tenants

1) At the time of application, all applicants must be provided with the request for Reasonable Accommodation form, a copy of which is affixed hereto as attachment 1, or, upon request, the form must be provided in an equally effective format.

2) MHA tenants seeking accommodations may contact staff in the main office located in Spring Brook Courts or the HUD Chicago office directly to request the accommodation.

3) MHA is responsible for informing all tenants that a request may be submitted for reasonable accommodations for an individual with a disability. All tenants will be provided the request form when requesting a reasonable accommodation. However, a tenant may submit the request in writing, orally, or use another equally effective means of communication to request the accommodation. Upon receiving the request, MHA and/or the FH&EO Office will respond to the request within (30) thirty business days. If additional information or documentation is required, a written request should be issued to the Physician/Diagnostician by using the Request for Information or Verification Form, a copy of which is affixed hereto as attachment 2. A submission date should be specified in the Request for Information so as not to delay MHA's review of the request.

4) MHA will maintain written materials, at their public housing sites, which summarizes this policy and highlights the procedures for making a request for reasonable accommodations.

Procedure #2 – Sequence For Making Decisions

1. Is the applicant/tenant a qualified "individual with a disability"?

   a. If NO, we are not obligated to make a reasonable accommodation; therefore, we may deny the request.

   b. If YES, go to step 2.

   c. If more information is needed, either write for more information using the standard ***Request for Information or Verification*** letter, or request a meeting with the Tenant, a copy of which is affixed hereto as attachment 2.

2. Is the requested accommodation related to the disability?

a. If NO, we are not obligated to make the accommodation; therefore, we may deny the request.

b. If YES, go to step e.

c. If more information either write for more information uses the standard ***Request for Information or Verification*** letter, or request a meeting with the Tenant.

3. Is the requested accommodation reasonable? This determination will be made by the following Procedure #3 – Guidelines for Determining Reasonableness.

a. If NO, we may deny the request. Submit the denial stating the reason(s) denying ***Request for Reasonable Accommodation.***

b. If YES, we will approve the request for the reasonable accommodation. A written description of the accommodation will be prepared and included in the letter approving ***Request for Reasonable Accommodations.***

c. If more information either write for more information uses the standard ***Request for Information or Verification*** letter, or request a meeting with the Tenant.

Procedure #3 – Guidelines for Determining Reasonableness

1) In accordance with Policy Principle 6.1, MHA will consider the requested method for providing reasonable accommodations for an individual with a disability. However, MHA is required to evaluate the requested method and may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable access to and use of the housing program. Additionally, MHA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the accommodation.

2) Requests for reasonable accommodations will be considered on a case by case basis. Decisions regarding reasonable accommodations will be carried out in compliance with all applicable accessibility laws and requirements. Additionally, in those circumstances where MHA deems that a proposed reasonable accommodation would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, MHA has the burden of proving such results.

3) The responsibility for the decision that a proposed reasonable accommodation would result in such alteration or burdens shall rest with the Executive Director or their designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burden, MHA shall propose any other action that will not result in or require an alteration or burden.

4) Live-In-Aides. In some cases, an individual with a disability may require a live-in-aide. In accordance with the provisions of the MHA's Admissions and Continued Occupancy Policy, MHA may permit a live-in-aide to reside in the dwelling unit to assist an individual with a disability. A live-in-aide means a person who :

a) is determined by MHA to be essential to the care and well being of a family member with a disability; and

b) is not obligated to support the family member; and

c) would not be living in the unit except to provide the supportive services.

5) A live-in-aide would not be required to share a bedroom with another member of the household [see 24 CFR 966.4(d) (3)]. Prior to granting permission, the live-in-aide must submit to a criminal background check in accordance with MHA policies and procedures. Additionally, verification for the need for a live-in-aide is required. MHA will also take the following factors into consideration when approving a live-in-aide:

   a) whether the addition of a new occupant would create a situation of overcrowding in the dwelling unit or require an additional bedroom, thereby requiring a transfer to another dwelling unit; and

   b) the availability of an appropriate size dwelling unit with any necessary amenities, (lack of such a unit does not relieve the Authority of its obligations to provide the unit or grant the live-in-aide, it only means the Authority must address this need under item (c) below); and

   c) MHA's obligation to make reasonable accommodation for persons with disabilities.

6) Verification. The MHA may verify a person's disability only to the extent necessary to ensure that applicants are qualified for the housing for which they are applying; that applicants are qualified for deductions used in determining adjusted income; that applicants are entitled to any preference they may claim; and that applicant who have requested a reasonable accommodation have a need for the requested accommodation. A MHA may not require applicants to provide access to confidential medical records in order to verify a disability or require specific details as to the nature of the disability. A MHA may require documentation of the manifestation of the disability that causes a need for a specific accommodation or accessible unit. A MHA may not ask what the specific disability is.

ATTACHMENTS TO PROCEDURES

Attachment #1 – Request for a Reasonable Accommodation

Attachment #2 – Request for Information or Verification

Attachment #3 – Your Right To Request a Reasonable Accommodation

Moline Housing Authority

4141 11th Avenue A ▪ Moline, Illinois 61265
Phone (309) 764-1819 ▪ Fax (309) 764-2120

REQUEST FOR A REASONABLE ACCOMMODATION

Head of Household_____

Address_____

Day phone: _____Home phone (if different)_____

---

1. The following member of my household has a disability

   Name_____
   Relationship_____

2. Please provide the following accommodation(s) so that the person listed above can comply with the requirements of the program and have an equal opportunity within the program to use and enjoy his/her unit and its associated premises.

   Check the applicable request:

   ☐ An accommodation or adjustment in the following program, rule, policy, practice or service that I currently must follow to meet the terms of the program. I understand that I may ask for change in <u>how</u> I meet the terms of the program's rules and regulations. (Please be specific and explain what is needed. Attach a separate sheet if necessary for additional information.)

   _____

   _____

   _____

   _____

   _____

   _____

   _____

   _____

   _____

☐ A modification in my unit or to another part of the associated housing complex. (Please tell what specifically is needed. Attach a separate sheet if necessary for additional information.) (NOTE: Applicable only to programs where the Moline Housing Authority owns the property.)

_____

_____

_____

_____

_____

3. I need this reasonable accommodation because:

_____

_____

_____

_____

4. My request can be verified by the following Professional:

Name_____Title:_____

Organization_____

Address _____

_____

Phone (____) _____

If there are other persons who can also verify your request, please fully identify them on a separate sheet and attach.

I, _____, give the Moline Housing Authority permission to contact the individual(s) identified in No. 4 of this form for purposes of verifying that I or a family member needs the reasonable accommodation requested above. (NOTE: This must be signed by the person designated in No. 1 of this form or by an individual with authority to sign on that person's behalf).

_____ _____

Signed (Head of Household) (Date)

Moline Housing Authority

4141 11th Avenue A ▪ Moline, Illinois 61265
Phone (309) 764-1819 ▪ Fax (309) 764-2120

[insert date]

Dear:

Enclosed is a "Request for Reasonable Accommodations" form signed by **[insert individual's name]** asking you to verify [his/her], or [his/her] household member's need for a reasonable accommodation or modification in [his/her] housing.

In accordance with laws concerning persons with disabilities, a housing provider, upon request, may have to make reasonable accommodations to its program's rules, policies, practices or services or reasonable modifications to a housing unit or its associated premises. These reasonable accommodations or modifications may be required if they are necessary to enable a person with a disability to comply with the program's requirements and have an equal opportunity within the program to use and enjoy the unit and its associated premises. Please note that such accommodations *must be necessary*, not just desirable.

[Insert individual's name] has requested the accommodation described on the enclosed "Request for a Reasonable Accommodation" form. Please indicate by completing the verification portion of this form whether you believe the requested accommodation is necessary and will achieve its stated purpose. You may also add any other information that would be helpful in making the right accommodation for this person.

This form should not be used to discuss the person's diagnosis or any other information that is not directly relevant to the request for an accommodation.

Please return the form within ten calendar days of its receipt in the enclosed self-addressed, stamped envelope. If you have any questions, or cannot complete the form within ten days, please call **[insert staff name]** at 309-764-1819.

Thank you for your cooperation.

Sincerely,

Moline Housing Authority

Enclosure: Request for a Reasonable Accommodation Verification Form

REQUEST FOR A REASONABLE ACCOMMODATION VERIFICATION FORM

In accordance with the signed consent provided on the attached form, please verify the information concerning a request for a reasonable accommodation for **[Insert individual's name]** by completing the following:

(Check all applicable boxes)

A. ☐ The subject individual has a disability or handicap (The U.S. Department of Housing and Urban Development's definition of handicap requires that the individual has an impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently and is of a nature that the ability to live independently could be improved by a stable residential situation. This term includes: developmentally disabled persons as defined in Section 102 of the Department Disabilities Services and Facilities Construction Amendment of 1970 (42) USC 269, [1])

An individual who is <u>developmentally disabled</u>, i.e., an individual who has a severe chronic disability, is one for whom <u>all</u> of the below apply:

1. is attributable to a mental and/or physical impairment;
2. was manifested before the age of 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas: capacity for independent living, self care, receptive and expressive language, learning, mobility, self-direction, and economic self-sufficiency, AND
5. requires special, interdisciplinary or generic care, treatment, or other services, which are of lifelong or extended duration and are individually planned and coordinated.

☐ The subject individual does NOT have a disability or handicap.

B. ☐ The disability or handicap <u>necessitates</u> the requested accommodation or modification identified on the enclosed Reasonable Accommodation Request Form in order for the subject individual to comply with the requirements of the program and have equal access to and enjoyment of his/her unit and its associated premises.

C. Do you believe the requested accommodation will achieve its stated purpose?
☐ yes ☐ no (If "no" please briefly explain)

D. Please indicate the critical time frame required to complete the requested accommodation so that the subject can have an equal opportunity to use and enjoy his/her unit and its associated premises and honor the terms of his/her lease.

- ☐ Immediate
- ☐ Within 5 months
- ☐ From 6 months to 1 year

E. How long have you been familiar with the subject individual's disability?

F. Date of last contact with the subject individual concerning his/her disability:

_____

G. Please provide any comments to assist in the evaluation of the requested reasonable accommodation:

I certify that the above information is true and complete.

Physician/diagnostician name/title	License #
Signature	Date
Name of Organization	Street address
City, State, Zip	Phone

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make false statements or misrepresentations to any department or agency of the United States as to any matter within its jurisdiction.

Moline Housing Authority

4141 11th Avenue A ▪ Moline, Illinois 61265
Phone (309) 764-1819 ▪ Fax (309) 764-2120

YOUR RIGHT TO REQUEST A REASONABLE ACCOMMODATION

Do I have the right to request a reasonable accommodation or modification of my unit while in pubic or assisted housing?

If you have a disability that requires you to need:

- An accommodation or adjustment in the program's rules, policies, practices or services, or
- A modification of your Public Housing unit or its associated premises, then …

  You have the right to request a reasonable accommodation or modification.

Will my request automatically be approved?

We will try to approve your request if you can show that …

You have a disability that requires a reasonable accommodation or modification, and your request is reasonable.

How do I file a request?

You can request a reasonable accommodation by filling out a Reasonable Accommodation Request Form available at The Moline Housing Authority, 4141 11th Avenue A, Moline, IL or by calling 309-764-1819 during regular business hours. A TTY number is available in the area for hearing impaired persons. If you need help filing out this form, or if you want to give us your request in some other way, we will help you.

What happens after I file the request?

Your request will be reviewed and you will receive a response within 30 calendar days after we have received your request. If we turn down your request, we will explain the reasons. You will have a right to a hearing if your request is denied.

My signature confirms that I have read and understand my rights as indicated above.

_____ _____

Signature (Head of Household) **Date**

The Moline Housing Authority will make every effort to make this information available to persons with disabilities in alternative formats upon request. Please allow a minimum of seven days for preparation of the material.

APPENDIX H

RENT DETERMINATION POLICY

RENT DETERMINATION

Public Housing

MHA employs discretionary policies for determining income-based rent in public housing, which are described as follows:

Minimum Rents

The Moline Housing Authority has adopted a minimum rent of $50.00 for all public housing residents.

Hardship Exemptions

As in accordance with QHWRA, hardship exemptions are granted to any family that is unable to pay the minimum rent because of financial hardship. Those hardships could include:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;
- The family would be evicted as a result of the imposition of the minimum rent requirement;
- The income of the family has decreased because of changed circumstances, including loss of employment;
- A death in the family has occurred.

Federal Legislators enacted the hardship exemption in order to provide families in trouble with relief from the minimum rents, which authorities can set at up to $50.

Income-Based Rents

Income-based rents will be calculated based on the higher of:

- 30 percent of monthly Adjusted Income; or
- 10 percent of Monthly Income.

Calculation of Flat Rents

MHA has developed a flat rent policy for its public housing developments, which is included below:

Flat Rent Policy

The Quality and Housing Work Responsibility Act of 1998 (QHWRA) established a new rent payment system for public housing residents. In addition to the current income-based approach that we use to determine Total Tenant Payment (i.e., 30% of adjusted income, 10% of gross income, or the minimum rent, whichever is higher), residents can choose to pay a flat rent for their unit. A flat rent is a market-based rent, and flat rents are to be established for each bedroom size, by each housing authority, based on the market value of the authority's units. Under the current income-based approach, a family's rent payment continues to rise as income increases and perversely becomes a disincentive to work. Flat rents will cap the amount of rent that any family pays and will enable families to better budget and plan for the future.

Housing authorities are given great latitude in the way in which they set their flat rents. HUD has only required that the flat rents be market-based and that the methodology used to establish them is documented. Housing Authorities can choose to conduct market comparability studies, simply adopt HUD's fair market rents (FMR), adopt a percentage of FMR or can use any other approach that they deem appropriate.

MHA developed its proposed flat rents by establishing them at a percent of the Fair Market Rent. Flat rents are listed in Appendix C.

APPENDIX I

RESIDENTIAL LEASE AGREEMENT
TERMS & CONDITIONS

HOUSING AUTHORITY

RESIDENTIAL LEASE AGREEMENT

THIS LEASE IS IN TWO PARTS:

Part I establishes the Terms and Conditions of the lease.

These apply to all residents;

Part II is a lease contract. This is executed by the resident and the Moline Housing Authority, includes Part I Terms and Conditions (by reference) and the following information specific to each family's circumstances:

- Identification of all members of Tenant household by relationship to the Head of the Household, their social security numbers or certification on file that they do not have a Social Security Number, ages (at the time of lease execution) and dates of birth (DOB);
- Unit address, occupancy date, and unit number;
- Pro-rated and full monthly rent amount, security deposit required, pro-rated and full monthly utility allowance provided (if any), pro-rated and full monthly utility reimbursement (if any) and the amount of any other charges due under the lease;
- Utilities and appliances provided by the Housing Authority with the unit;
- All pamphlets or informational materials provided to Tenant;
- Signature line for the parties to the lease (all adult members of Tenant household age 18 and older must sign the lease);
- Emergency telephone number for Tenant to use if maintenance problems arise with the unit outside of normal Moline Housing Authority working hours.

PART I OF THE RESIDENTIAL LEASE AGREEMENT: TERMS AND CONDITIONS

Housing Authority

THIS LEASE AGREEMENT (called the "Lease") is between the Moline Housing Authority (called “Housing Authority”) and Tenant named in Part II of this lease (called "Tenant"). [24 C.F.R. § 966.4 (a)] (This refers to the Code of Federal Regulations which is the source or reference unless stated otherwise).

I. Description of the Parties and Premises: [966.4 (a)]

1. The Housing Authority, using verified data about income, family composition, and needs, leases to Tenant, the property (called "premises" or "dwelling unit") described in Part II of this Lease Agreement, subject to the terms and conditions contained in this lease. [966.4 (a)]

2. Premises must be used only as a private residence, solely for Tenant and the household members named on Part II of the Lease. Tenant is required to physically maintain residence in the dwelling unit. The Housing Authority may, by prior written approval, consent to Tenant's use of the unit for legal profit-making activities incidental to the residential use subject to the Housing Authority's policy on such activities. [966.4 (d)(1 & 2)]

3. Any additions to the household members named on the Lease, including Live-in Aides and foster children, but excluding natural births, require the advance written approval of the Housing Authority. Such approval will be granted only if the new family members pass the Housing Authority's screening criteria and a unit of the appropriate size is available. Permission to add Live-in Aides and foster children shall not be unreasonably refused. [966.4(d)(3)(i)] Tenant agrees to wait for the Housing Authority's approval before allowing additional persons to live in the Premises. Failure on the part of Tenant to comply with this provision is a serious violation of the material terms of the lease, for which the Housing Authority may terminate the lease in accordance with Section XVII. [966.4 (k)(2)]

4. The Tenant shall report deletions of any household members named on the Lease for any reason from the household to the Housing Authority in writing, within 10 business days of the occurrence. [966.4 (c)(1) & (2) & (f)(3)]

II. Lease and Amount of Rent

1. This Lease is for an initial term of one (1) year. Thereafter, unless otherwise modified or terminated in accordance with Section XVII; this Lease shall automatically be renewed for successive terms of one year. [966.4 (a)(1)] Families will be required to execute a new lease each year during the annual MHA household reexamination. The rent amount is stated in Part II of this Lease. Rent shall remain in effect unless adjusted by the Housing Authority in

accordance with Section VII herein. [966.4 (c)] The amount of the Total Tenant Payment and Tenant Rent shall be determined by the Housing Authority in compliance with HUD regulations and requirements and in accordance with the Housing Authority's Admissions and Occupancy Policy. [966.4 (c)]

2. Rent is DUE and PAYABLE in advance on the first day of each month and shall be considered delinquent if received after the close of business (4:30 p.m.) on the fifth calendar day of the month. Rent may include utilities as described in Section VII below, and includes all maintenance services due to normal wear and tear. [966.4 (b)(1), (e)(1) & (3)] When the Housing Authority makes any change in the amount of Total Tenant Payment or Tenant Rent, the Housing Authority shall give written notice to Tenant. The notice shall state the new amount, and the date from which the new amount is applicable. Rent re-determinations are subject to Section VII, herein, and the Administrative Grievance Procedure. The notice shall also state that Tenant may ask for an explanation of how the amount is computed by the Housing Authority. If Tenant asks for an explanation, the Housing Authority shall respond in a reasonable amount of time. [966.4 (c)(4)]

III. Other Charges in addition to rent, Tenant is responsible for the payment of certain other charges specified in this lease. The type(s) and amount(s) of other charges are specified in Part II of this Lease Agreement. Other charges can include: [966.4(b)(2)]

1. Maintenance costs -- The cost for services or repairs due to intentional or negligent damage to the dwelling unit, common areas or grounds beyond normal wear and tear, caused by Tenant, household members or by guests. When the Housing Authority determines that needed maintenance is not caused by normal wear and tear, Tenant shall be charged for the cost of such service, either in accordance with the Schedule of Maintenance Charge posted by the Authority or (for work not listed on the Schedule of Maintenance Chares) based on the actual cost rounded to the nearest dollar to the Housing Authority for the labor and materials needed to complete the work. If overtime work is required, overtime rates shall be charged. [966.4(b)(2)]

2. Excess Utility Charge – At developments where utilities are provided by the Housing Authority, a charge shall be assessed for excess utility consumption due to the operation of major tenant-supplied appliances. This charge does not apply to Tenants who pay their utilities directly to a utility supplier. See Part II of this Lease for specifics. [966.4(b)(3)]

3. Late Charges -- A late charge of $25.00 for rent or other charges will be due for any payment received after the close of business (4:30 p.m.) on the fifth ($5^{th)}$ calendar day of the month, regardless if the 5^{th} day is a weekend, a holiday, or if the Housing Authority office is closed. Any late rent will not be accepted by the Housing Authority unless it includes the late charge. Rent payments deposited in drop boxes of the Housing Authority, or received by the Housing Authority by mail or any other means after the close of business on the

5th calendar day of the month shall be considered late and subject to a late charge.

4. The Housing Authority shall provide written notice of the amount of any charge in addition to Tenant Rent, and when the charge is due. Charges in addition to rent are due no sooner than two weeks after Tenant receives the Housing Authority's written notice of the charge. [966.4(b)(4)]

5. Yard Clean-up Charge – A charge of $25.00 will be imposed if trash, garbage, or pet waste are not properly disposed of in garbage containers.

IV. Payment Location

Rent and other charges shall be paid at the management office where the tenant resides or at other locations specifically designated for the development where the tenant resides. The management office is located at 4141 11th Avenue A., Moline, Illinois 61265. There are drop boxes at Hillside and Spring Valley. However, if needed as a reasonable accommodation, the Housing Authority shall make other arrangements for payment of rent at the specific request of the tenant. [8.24(a)(1)(2) and (b)].

V. Security Deposit

1. Tenant Responsibilities: Tenant agrees to pay an amount $250.00 for multi-family developments and hi-rises. The dollar amount of the security deposit is noted on Part II of this Residential Lease. [966.4(b)(5)]

2. Housing Authority's Responsibilities: The Housing Authority may use the Security Deposit at the termination of this Lease:

   a. To pay the cost of unpaid rent, damages listed on the Move-Out Inspection Report or other unpaid charges in addition to rent under the lease owed by Tenant at the termination of this lease.

   b. To reimburse the cost of repairing any intentional or negligent damages to the dwelling unit caused by Tenant, household members or guests.

3. The Housing Authority shall not charge a higher security deposit for tenants with disabilities who use wheelchairs and/or have service or companion animals necessary as a reasonable accommodation. The Security Deposit may not be used to pay rent or other charges while Tenant occupies the dwelling unit. No refund of the Security Deposit will be made until Tenant has vacated, and the dwelling unit has been inspected by the Housing Authority. If no deductions are necessary the return of a security deposit shall occur within 30 days after Tenant moves out, pursuant to Illinois Security Deposit Return Act. The Housing Authority agrees to return the Security Deposit (subject to applicable laws), if any, to Tenant when he/she vacates, less any deductions for any costs indicated above, so long as Tenant furnishes the Housing Authority with a forwarding address. If any deductions are made from the

security deposit, the Housing Authority will furnish Tenant with a written itemized statement of any such damages, and the cost of damage and/or other charges deducted from the Security Deposit within thirty (30) days of tenant vacate date.

VI. Utilities and Appliances [966.4 (b)(1)]

1. Housing Authority-Supplied Utilities: If indicated by an (X) on Part II of the Lease Agreement, the Housing Authority will supply the indicated utility: electricity, natural gas, heating fuel, water, sewer service. The Housing Authority will not be liable for the failure to supply utility service for any cause whatsoever beyond its control. If indicated by an (X) on Part II of the Lease Agreement, the Housing Authority will provide a cooking range and refrigerator. Other major electrical appliances, air conditioners, freezers, extra refrigerators, washers, dryers, space heaters etc., may be installed only upon prior submission of written notice to the Housing Authority, with the prior written approval from the Housing Authority and pursuant to relevant Housing Authority Policies. A monthly service charge will be payable by Tenant for the electricity used in the operation of such appliances, as provided in Part II of this Lease shown on the Schedule posted in the Project Office. [966.4(b)(2)]

2. Tenant Responsibilities: Tenant agrees not to waste the utilities provided by the Housing Authority and to comply with any applicable law, regulation, or guideline of any governmental entity regulating utilities or fuels. [966.4(f)(8)] Tenant also agrees to abide by any local ordinance or Housing Authority rules restricting or prohibiting the use of space heaters in multi-dwelling units. [966.4(f)(8)] Tenant also agrees to abide by any laws, local ordinance or Housing Authority rules limiting, restricting or prohibiting the use of space heaters in dwelling units.

VII. Terms and Conditions

The following terms and conditions of occupancy are made a part of the Lease.

1. Use and Occupancy of Dwelling: Tenant shall have the right to exclusive use and occupancy of the dwelling unit for Tenant and other household members listed on the lease. With the prior written consent of the Housing Authority, members of the household may engage in legal profit-making activities in the dwelling unit incidental to the residential use. [966.4(d)(1) & (2)], provided that they show proof that they are complying with, and have obtained state and municipal authorizations, if necessary.

2. This provision permits accommodation of Tenant's guests or visitors for a period not exceeding thirty (30) cumulative calendar days during any 12-month period. Tenant should inform their Housing Coordinator and sign in all guests or visitors that will be present in the unit for more than three (3) consecutive nights. Guests who represent or use the tenant’s public housing unit address as

their residence address or address of record for receipt of benefits or any other purpose will be considered unauthorized occupants.

3. Ability to comply with Lease terms: If, during the term of this Lease, Tenant, by reason of physical or mental impairment, is no longer able to comply with the material provisions of this lease and cannot make arrangements for someone to aid him/her in complying with the lease, and the Housing Authority cannot make any reasonable accommodation that would enable Tenant to comply with the lease; THEN, the Tenant, or designated member(s) of Tenant's family will find more suitable housing and move the Tenant from the dwelling unit. At the time of admission, all Tenants must identify the family member(s) to be contacted if they become unable to comply with lease terms.

   If there is no family member who can or will take responsibility for moving the Tenant, the Housing Authority will work with appropriate agencies to secure suitable housing and will terminate the Lease in accordance with Section XVII of this Lease. [8.3]

4. Re-determination of Rent, Dwelling Size, and Eligibility. The rent amount as fixed in Part II of the Lease Agreement is due each month until changed as described below.

   a. If the Tenants have chosen an income-based rent, then at least once annually, the Tenant is required to provide current and accurate information regarding income, assets, allowances, deductions, and family composition to enable the HA to make determinations with respect to rent, eligibility, and the appropriateness of the size of the dwelling unit. Tenant must report within 10 business days any change in family income or any change in the composition of the household. [5.617(a)(1)]

   b. If the tenant has chosen a flat rent, then the Housing Authority shall re-examine the Tenant’s income, assets, allowances, and deductions every three years. Tenant's family composition must be re-examined every year. Tenant must report within 10 working days any change to the composition of the household.

   c. Families reporting $0.00 per month in income will be scheduled for an interim reexamination every 90 days. Families will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

   d. Tenant promises to supply the Housing Authority, when requested, with accurate information about: family composition, age of family members, income and source of income of all family members, assets, and related information necessary to determine eligibility, annual income, adjusted income, and rent. [5.617(b)(2)] Failure to supply such information when requested is a serious violation of the terms of the lease, and the Housing Authority may terminate the lease. All information must be verified.

Tenant agrees to comply with the Housing Authority's requests for verification by signing releases for third-party sources, presenting documents for review, or providing other suitable forms of verification. [966.4(c)(2)] The Housing Authority shall give Tenant reasonable notice of what actions Tenant must take and of the date by which any such action must be taken for compliance under this section. This information will be used by the Housing Authority to decide whether the amount of the rent should be changed, and whether the dwelling size is still appropriate for Tenant's needs. This determination will be made in accordance with the Admissions and Occupancy Policy, which is publicly posted in the Project Office. A copy of the policies can be furnished on request at the expense of the person making the request.

e. If the family fails to appear for the second recertification appointment, and has not rescheduled or made prior arrangements, the families will be considered to be in non-compliance and are in serious violation of the material terms of the lease which is grounds for termination of the lease and eviction in accordance with Section XVII.

f. When the Housing Authority redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the Housing Authority's schedule of Utility Allowances for families in the Housing Authority Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the Housing Authority shall notify the tenant that the tenant may ask for an explanation stating the specific grounds of the Housing Authority determination, and that if tenant does not agree with determination, the tenant shall have the right to request a hearing under the Housing Authority's grievance procedure. [966.4(c)(4)]

5. Rent will not change during the period between regular re-determination UNLESS during such period: [5.617(a)(2)]

   a. A person with income joins the household or who has income paid on their behalf joins the household; or

   b. An increase in the household income in excess of $200.00 per month ($200 threshold does not apply to zero ($0) income tenants); or

   c. Tenant can verify a change in his/her circumstances (such as decline in or loss of income) that would justify a reduction in rent. [5.613] If a reduction is granted, Tenant must report subsequent increases in income within 10 business days of the occurrence, until the next scheduled re-examination. (Failure to report within the 10 business days may result in a retroactive rent charge); or

   d. It is found that the Tenant has misrepresented the facts upon which the rent is based so that the rent Tenant is paying is less than the rent that

he/she should have been charged. The Housing Authority then may apply an increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred; or

e. Rent formulas or procedures are changed by Federal law or regulation.

6. All changes in income and family composition must be reported to the Housing Coordinator within 10 business days of the occurrence by the tenant completing, signing, and submitting a Request for Interim Adjustment to the management office. Failure to report within the 10 business days may result in a retroactive rent charge and lease termination. [966.4(c)(2)] This Lease will NOT be revised to permit a change of family composition resulting from a request to allow adult children or other persons who are not minor children of the Head of Household to move back into the unit without prior approval of the Housing Authority. Approval will be granted, subject to the HA screening procedures, if it is determined that the move-in of a single adult child is essential for the mental or physical health of Tenant.

7. Rent Adjustments: Tenant will be notified in writing of any rent adjustment due to the situations described above. All notices will state the effective date of the rent adjustment.

   a. In the case of a rent decrease, the adjustment will become effective on the first day of the month following the month in which the change occurred if the income decrease is reported on, or before, the MHA accounting cut-off date, which is the 20th day of each month. The adjustment will be effective the first day of the second month following the month in which the change occurred if the income decrease is reported after the 20th day of the month. However, no decrease shall be made until the Housing Coordinator or designee receives the third-party verification(s). A decrease that is verified to last less than 30 days will not be processed.

   b. In the case of a rent increase, when an increase in income occurs after a prior rent reduction and is reported within 10 business days of the occurrence, the increase will become effective the first day of the 2nd month following the month in which the change was reported.

   c. In the case of a rent increase due to a change in Federal law or regulations, the increase will become effective the first day of the second month following the month in which the Housing Authority notifies the tenant of the law or regulatory change.

   d. In the case of a rent increase due to misrepresentation, failure to report a change in family composition, or failure to report an increase in income (after a reduction in rent per the fixed rent policy), the Housing Authority shall apply the increase in rent retroactive to the first of the month following the month in which the misrepresentation occurred.

e. A tenant's rent shall not be reduced if the reduction income is due to a reduction in welfare assistance benefits because of the Tenant's failure to comply with the program requirements or because of fraud.

f. Tenant will have the right to file a written grievance with the Housing Authority pursuant to the Housing Authority Grievance Procedure Policy.

8. Transfers [966.4(c)(3)]

a. Tenant acknowledges that if the Housing Authority determines the size of a Tenant's current dwelling unit is not the appropriate size based on the Tenant's family composition, the Housing Authority shall send Tenant written notice of such determination. Tenant agrees to accept a new lease for a different dwelling unit of the appropriate size.

b. After proper written notice a Tenant without physical disabilities who is residing in a handicap or physical adaptable unit must transfer to a dwelling unit without such features should a Tenant or applicant with disabilities need the unit. [8.27(b)]

c. The Housing Authority will consider any Tenant request for transfer in accordance with the transfer priorities established in the housing authority's Admission and Occupancy Policies (ACOP).

VIII. Housing Authority Obligations [966.4(e)]

The Housing Authority shall be obligated:

1. To maintain the dwelling unit and the project in decent, safe and sanitary condition; [966.4 (e)(1)]

2. To comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety; [966.4(e)(2)]

3. To make necessary repairs to the dwelling unit; [966.4(e)(3)]

4. To keep project building, facilities, and common areas, not otherwise assigned to Tenant for maintenance and upkeep, in a clean and safe condition; [966.4(e)(4)]

5. To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators supplied or required to be supplied by the Housing Authority; [966.4(e)(5)]

6. To provide and maintain appropriate receptacles and facilities (except container for the exclusive use of an individual tenant family) for the deposit of garbage, rubbish, and other waste removed from the premise by Tenant as required by this Lease, and to provide disposal service for garbage, rubbish and other solid waste; [966.4(e)(6)]

7. To supply running water and reasonable amounts of hot water and reasonable amount of heat at appropriate times of the year according to local custom and usage; EXCEPT where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat or hot water is generated by an installation within the exclusive control of Tenant and supplied by a direct utility connection; [966.4(e)(7)]

8. To notify Tenant of the specific grounds for any proposed adverse action by the Housing Authority. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of Tenant to another unit, or imposition of charges for maintenance and repair, or for excess consumption of utilities.) When the Housing Authority is required to afford Tenant the opportunity for a hearing under the Housing Authority's grievance procedure for a grievance concerning a proposed adverse action:

    a. The Notice of the proposed adverse action shall inform Tenant of the right to request such hearing. In the case of lease termination, a notice of lease termination that complies with 24 U.S.C. §966.4(l)(3) shall constitute adequate notice of proposed adverse action.

    b. In the case of a proposed adverse action other than a proposed lease termination, the Housing Authority shall not take the proposed action until time to request such a hearing has expired and (if hearing was timely requested) the grievance process has been completed. [966.4(e)(8)]

9. Reasonable Accommodations for Residents with Disabilities: The Housing Authority will make reasonable accommodations with the property under this lease and other policy requirements when requested by a qualified resident with disabilities. The concept of reasonable accommodation involves helping a resident meet essential lease requirements; it does not require the lowering or waiving of essential requirements. Accommodations are not reasonable if they require a fundamental alteration in the nature of the program or impose undue financial and administrative burdens on the housing provider.

IX. Tenant's Obligations

Tenant shall be obligated:

1. To comply with all the rules, regulations, terms and conditions, and policies set forth in the Resident Handbook, the Admissions and Continued Occupancy Policy (ACOP), the Smoking Ban Policy, Moline Housing Authority Rules and Regulations, HUD Regulations, the Moline Housing Authority Parking Policy, the Moline Housing Authority Park Policy, the Firearms Policy, the MHA Air Conditioner Policy, Moline Housing Authority Housekeeping Guidelines, and abide by other necessary and reasonable policies, rules and regulations established by the Housing Authority and posted in the management office. All of the above are incorporated by reference in the lease and are for the benefit and well-being of the Housing Authority’s properties, the community and

residents. Any and all copies of policies attached to this lease will be the most current version of the policy, and subject to change per Housing Authority regulations. Any violation of the rules, regulations, and policies also constitutes a serious material violation of this lease and can be grounds for termination of the lease and eviction in accordance with Section XVII. If the terms of the lease and other rules, regulations, and policies conflict, the terms of this lease and the Federal Regulations shall prevail. [966.4(f)(4)]

2. Not to assign the Lease, nor sublease the dwelling unit. [966.4(f)(1)]

3. Not to give accommodation to boarders or lodgers, [966.4(f)(2)], without the advance written consent of the Housing Authority and not to give accommodations to long-term guests in excess thirty (30) cumulative calendar days during any 12-month period without the advance written consent of the Housing Authority.

4. Not to give accommodation or voluntarily meet on MHA property with any individual that is barred or banned by MHA from being on MHA property (see MHA Barred and Banned Policy in ACOP).

5. Not to give accommodation to any former tenant or other person that was evicted, involuntarily terminated, or who voluntarily vacated after receiving a lease termination notice from MHA, in the last five years.

6. The above provision does not exclude the care of foster children or live-in care of a member of Tenant's family, provided the accommodation of such persons conforms to the Housing Authority's Occupancy standards, and so long as the Housing Authority has granted prior written approval for the foster child(ren), or live-in aide to reside in the unit. [966.4(d)((3)(i)]

7.

8. To use the dwelling unit solely as a private dwelling for Tenant and Tenant's household as identified in PART II of the Lease, and not to use or permit its use for any other purpose. [966.4(f)(3) & (d) (1 & 2)] (See also Sec. I(b)). Tenant also agrees to use dwelling units as their primary and sole address and to not allow another person to use the tenant’s public housing unit address as the address of record for that person. Tenant may obtain a Post Office Box from the United States Postal Service in addition to the Housing Authority dwelling unit postal address.To comply with the requirements of applicable state and local building or housing codes, materially affecting health and/or safety of Tenant and household. [966.4(f)(5)]

9. To keep the dwelling unit and other such areas as may be assigned to Tenant for exclusive use in a clean and safe condition. [966.4(f)(6)] This includes keeping front and rear entrances, windows, and walkways for the exclusive use of Tenant, free from obstructions, hazards and trash and keeping the yard free of debris and litter. [966.4(g)]

10. To dispose of all garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner only in the dumpsters provided by the Housing Authority. [966.4(f)(7)]

11. To use only in reasonable manner all electrical, sanitary, heating, ventilating, air-conditioning, and other facilities and appurtenances including elevators. [966.4(f)(8)]

12. To refrain from, and to cause household and guest to refrain from destroying, defacing, damaging, or removing any part of dwelling unit or Housing Authority property. [966.4 (f)(9)]

13. To pay reasonable charges (other than for wear and tear) for the repair of damages to the dwelling unit, project buildings, facilities, or common areas caused by Tenant, household members or guests. [966.4(f)(10)]

14. To act, and cause household members or guests to act in a manner that will not disturb other residents' peaceful enjoyment of their accommodations and be conducive to maintaining all Housing Authority projects in a decent, safe and sanitary condition. [966.4(f)(11)]

15. To assure that Tenant, any member of the household, a guest, or another person under Tenant's control, shall not engage in:

    a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Housing Authority's public housing premises by other residents or employees of the Housing Authority, or;

    b. Any drug-related criminal activity on or off the premises. Any criminal activity in violation of the preceding sentence shall be cause for termination of tenancy, and for eviction from the unit. (For the purposes of this lease, the term drug-related criminal activity means the illegal possession, manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance as defined in Section 102 of the Controlled Substances Act.) [966.4(f)(12)]

16. 1.

17. To make no alterations or repairs or redecoration or paint to the interior of the dwelling unit or to the equipment, nor to install additional equipment or major appliances without written consent of the Housing Authority. To make no changes to locks or install new locks on exterior or interior doors without the Housing Authority's written approval. To use no tacks, screws, brackets, or fasteners on any part of the dwelling unit (a reasonable number of picture hangers accepted) without authorization by the Housing Authority.

18. To agree to notify the Housing Authority if he/she is going to be absent from the dwelling unit for more than thirty (30) days and provide a means for the Housing Authority to contact the resident in the event of an emergency. Failure to advise the Housing Authority of extended absences is grounds for termination of the Lease and an eviction notice.

19. To agree that any member of the household will be considered permanently absent and shall be deleted from the lease if he/she is away from the dwelling unit for 180 consecutive days except as otherwise approved by the Executive Director or his/her designee.

20. To agree that if the Tenant (sole member of the household) is incarcerated for more than thirty (30) consecutive days, he/she will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent and shall be deleted from the lease if he/she is incarcerated for three (3) consecutive months.

21 To act in a cooperative manner with neighbors, visitors, contractors and the Housing Authority's Staff and cause members of Tenant's household or guests to refrain from acting or communicating in an abusive, threatening or harassing manner toward neighbors, visitors, contractors, and the Housing Authority's staff.

22. To take reasonable precautions to prevent fires and to refrain from storing or keeping flammable materials or gas operated equipment in or upon the premises.

23. To agree to keep working batteries in smoke detectors and CO detectors, and to refrain from removing the batteries or the smoke and CO detectors. Removal of smoke detectors or the batteries is grounds for termination of the Lease and eviction.

24. To avoid obstructing sidewalks, areaways, patios, breezeways, alcoves, galleries, passages, elevators, or stairs, and to avoid using these for purposes other than going in and out of the dwelling unit.

25. To refrain from placing signs of any type in or about the dwelling except those allowed under applicable zoning ordinances and then only after having received written permission of the Housing Authority.

26. To ensure that no member of their household keeps, maintains, harbors, or boards any dog, cat, livestock, or pet of any nature in the dwelling unit or on the grounds of any Housing Authority development except in accordance with the Housing Authority's pet policy. However, a person with a disability may keep a companion or service animal that is needed as a reasonable accommodation for his or her disability. An animal needed as a reasonable accommodation is not subject to the Housing Authority's pet policy, although it is subject to reasonable health and safety rules.

27. To remove from Housing Authority property any vehicles without valid registration and current Illinois license plates as dictated by Illinois State Law, or that are in violation of the MHA Parking Policy. To refrain from parking any vehicles in any right-of-way or fire lane designated and marked by the Housing Authority. Any inoperable or unlicensed vehicle as described above will be removed from Housing Authority property at Tenant's expense. Automobile

repairs are not permitted on project site, unless specified in the Parking Policy. To refrain from parking or driving vehicles on the lawn or other areas which are not designated for parking or driving.

28. To remove any personal property left on Housing Authority property when Tenant leaves, abandons or surrenders the dwelling unit. Property left for more than 30 days shall be considered abandoned and will be disposed of by the Housing Authority. Costs for storage and disposal shall be assessed against the former Tenant.

29. To use reasonable care to keep the dwelling unit in such condition as to ensure proper health and sanitation standards for Tenant, household members and neighbors. TENANT SHALL NOTIFY THE HOUSING AUTHORITY PROMPTLY OF KNOWN NEED FOR REPAIRS TO THE DWELLING UNIT, and of known unsafe or unsanitary conditions in the dwelling unit or in common areas and grounds of the Project. Tenant's failure to report the need for repairs in a timely manner shall be considered to contribute to any damage that occurs and tenant will be liable for any damage/charge attributable to the failure to report.

30. Not to commit any fraud in connection with any Federal housing assistance program.

31. Not to receive assistance for occupancy of any other unit assisted under any Federal Housing Assistance program during the term of the lease for longer than 10-day transition period.

32. To pay promptly any utility bills for utilities supplied to Tenant by a direct connection to the utility company, and to avoid disconnection of utility service for such utilities.

33. To agree that all personal property placed in the dwelling unit or any other place adjacent thereto, shall be at the Tenant’s sole risk, and the Housing Authority shall not be liable to the Tenant or Tenant’s family, employees, invitees, or licensees for any damage, loss, theft or destruction thereof unless caused by the negligence of the Housing Authority. The Tenant is responsible for obtaining insurance on Tenant-owned furnishings and personal property if desired.

34. For the purpose of this dwelling Lease, the term "unauthorized border" means a person" (a) who is not on the lease (b) tenant has not informed their Housing Coordinator about this person, and (c) is in a leased unit with the consent of the tenant and household member for more than thirty (30) cumulative days in a 12-month period. An unauthorized border is defined as an adult 18 years of age or older.

    Any person with a pattern of regular overnight visits in violation of the unauthorized border policy will be subject the tenant to termination of his or her tenancy.

Prior to the expiration of the thirty (30)-day period or any extended period granted by the Housing Authority, the tenant may apply with the Housing Authority to request that the guest become a permanent member of the household and have their name added to the Lease according to the Admission and Occupancy Policy. The addition of another permanent member to the household may change the amount of rent due from the tenant if the tenant has previously selected an income-based rent option.

35. To cooperate and assist the Housing Authority in the elimination of infestation of roaches and other pests. Failure to cooperate with the Housing Authority in the preparation of the unit for pest control treatment may be cause for the Tenant to be charged, according to the charges posted in the office, or for the lease to be terminated.

36. Not to prop open any fire, security and entry doors. Tampering with a fire, security or entry door is a material breach of this lease.

37. Swimming pools, picnic tables, slip and slides, sandboxes, clotheslines, swing sets, slides, benches, birdfeeders, and covered swings and gliders are not allowed on Housing Authority property. Birdbaths are not allowed in mowing areas. The birdbath must be cleaned out on a weekly basis.

38. Not to place decals on unit doors, appliances and cabinets supplied by the Housing Authority, nor place any material such as contact paper, paneling or fabric of any kind on the shelves, walls or ceiling.

39. Tenant agrees to abide by the Smoke Free Policy attached to this Lease which also includes limitations on the use of medical marijuana. Tenant agrees not to use tobacco products in living units, indoor areas, laundry rooms, community facilities, day care center, electrical closets, storage units, administrative office buildings, and in all outdoor areas within 25 feet of the housing and administrative office buildings.

    Tobacco products are products that involve the ignition and burning of tobacco leaves such as cigarettes, cigars, pipes, electronic nicotine delivery systems, and water pipes (also known as hookahs).

    Violations of this rule could lead to warnings, lease violations, and/or eviction notice.

X. Firearms, Knives, Clubs and Other Weapons

1. Tenant agrees to abide by the Firearms Policy attached to this Lease. In addition, Tenant and Tenant's guest will not display, use, or possess or allow member of Tenant's household or guest to display, use or possess any firearms, (operable or inoperable) or other offensive weapons, including "B-B" guns, paint ball guns, and/or "Pellet" guns, a firearm, gun, bow and arrow, slingshot, edged weapon or other weapon, as defined by the laws and courts of the State of Illinois outside of the unit or on the property of the housing

authority. The use of or the threat to use a knife, club or any other weapon against any person, or on the housing authority's property will be considered a serious violation of the terms and conditions of this Lease. Violating this rule will result in an immediate eviction notice being served to the household.

2. Tenant or Tenant's guest further agree not to use or threaten to use, a knife, club or any other weapon against any person, or on housing authority property. The use of or the threat to use a knife, club or any other weapon against any person, or on the housing authority's property will be considered a serious violation of the terms and conditions of this Lease and will be subject to termination of the Lease and an eviction notice

XI. Defects Hazardous to Life, Health or Safety

In the event that the dwelling unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants: [966.4 (h)]

1. The Tenant will immediately notify the Housing Authority of all damages to the apartment. Maintenance shall determine whether the premises are damaged to the extent that conditions are created which are hazardous to life, health, and safety of the Tenant. The housing authority shall be responsible for repair of the unit within a reasonable period of time after receiving notice from Tenant. If the damage was caused by Tenant, household members, or guests, the reasonable cost of the repairs shall be charged to Tenant. [966.4(h)(2)] If the damages are covered by the Housing Authority's insurance, an amount not to exceed the deductible of that insurance, will be assessed to the Tenant.

2. The Housing Authority shall offer Tenant a standard alternative accommodation, if available, if necessary repairs cannot be made within a reasonable time. The Housing Authority is not required to offer Tenant a replacement unit if the hazardous condition was caused by Tenant, household members, or guests. [966.4 (h)(3)] Tenant shall accept any replacement unit offered by the Housing Authority.

3. In the event repairs cannot be made by the Housing Authority, as described above, or alternative accommodations are not provided in accordance with this Section, the monthly rental shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling unit as determined by the Housing Authority. No abatement of rent shall occur if Tenant rejects the alternative accommodations or if the damage is caused by Tenant, household members or Tenant's guest(s). [966.4(h)(4)]

4. If the Housing Authority determines that the dwelling unit is unsuitable for tenancy because of imminent danger to the life, health, and safety of Tenant, and Tenant refuses alternative accommodations, this Lease shall be terminated.

XIII. Inspections

1. Move-in Inspection: The Housing Authority and Tenant or representative shall inspect the dwelling unit prior to occupancy by Tenant. The Housing Authority will give Tenant a written statement of the condition of the dwelling unit, both inside and outside, and note any equipment provided with the unit. The statement shall be signed by the Housing Authority and Tenant and a copy of the statement retained in Tenant's folder. [966.4(i)] Any repairs needed to the unit will be noted on the inspection report and will be corrected by the Housing Authority, at no charge to Tenant.

2. Other Inspections: The Housing Authority will inspect the unit at least annually to check needed maintenance, tenant housekeeping, and other lease compliance matters. Tenant will receive a written statement of the charges, if any, for repairs or removal of non-approved alterations to the unit. The Tenant agrees to permit the agents or employees of the Housing Authority to enter the dwelling unit during reasonable hours for the purpose of making inspections or repairs or for showing the dwelling unit for re-leasing.

3. Move-out Inspection: The Housing Authority will inspect the unit at the time Tenant vacates and give Tenant a written statement of the charges, if any, for which Tenant is responsible. Tenant and/or representative may join in such inspection, unless Tenant vacates without notice to the Housing Authority. [966.4(i)]

XIV. Entry of Premises During Tenancy

1. Tenant Responsibilities

   a. Tenant agrees that the duly authorized agent, employee, or contractor of the Housing Authority will be permitted to enter Tenant's dwelling during reasonable hours (7:30 a.m. to 6:00 p.m.) for the purpose of performing routine maintenance, making improvements or repairs, inspecting the unit, pest control treatment or showing the unit for re-leasing. [966.4(j)(1)]

   b. When Tenant calls to request maintenance on the unit and Tenant is absent from the dwelling unit when the Housing Authority comes to perform maintenance, Tenant's request for maintenance shall constitute permission to enter.

   c. Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be caged or held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease violation and/or lease termination.

2. Housing Authority’s Responsibilities

a. Except as provided in paragraph XIV 2(b), Housing Authority shall give Tenant at least forty-eight (48) hours written notice that the Housing Authority intends to enter the unit. Housing Authority may enter only at reasonable times. [966.4(j)(1)]

b. The Housing Authority may enter Tenant's dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists, including when open windows are observed in freezing weather conditions. [966.4(j)(2)] If Tenant and all adult members of the household are absent from the dwelling unit at the time of entry, Housing Authority shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit. [966.4(j)(3)]

XV. Notice Procedures

1. Tenant Responsibility-- Any notice to Housing Authority must be in writing, delivered to the Site Office or to Housing Authority's central office, or sent by prepaid first-class mail, properly addressed. [966.4 (k)(1)(ii)]

2. Housing Authority Responsibility -- Notice to Tenant must be in writing, delivered to Tenant or to any member (13 years of age or older) of the household residing in the dwelling unit, or sent by prepaid first-class mail addressed to Tenant. [966.4 (k)(1)(i)]

3. Unopened, unclaimed or refused first class, certified or registered mail returned by the Post Office shall be sufficient evidence that notice was given, whether signed or unsigned.

4. If Tenant is visually impaired, all notices will be hand delivered and verbally communicated. [966.4 (k)(2)]

5. If Tenant abandons or vacates a unit, the Housing Authority, subject to Illinois law, can post notices to the door.

XVI. Violence Against Women Act

Incidents of domestic violence, dating violence or stalking shall not be good cause for denying victims access to or termination from the public housing program or for terminating a lease held by a victim of such violence.

1. Incidents of threatened or actual domestic violence, dating violence or stalking may not constitute grounds of termination for the victim of such violence.

2. Criminal activity directly related to domestic violence, dating violence or stalking by a member or guest of resident’s household shall not be grounds for termination of tenancy against the victim of such violence.

3. Housing Authority may bifurcate the lease in order to evict, remove, or terminate assistance to any individual who engaged is criminal acts of physical violence against family members without evicting the victims of such acts

4. Housing Authority may honor court orders addressing rights of access or control of the property, including civil protection orders, among family members.

5. Housing Authority may evict residents for any violation of leases not premised on domestic violence, so long as Housing Authority does not subject victims of domestic violence to more demanding standards in eviction proceedings.

6. Housing Authority may still evict residents if Housing Authority can demonstrate that a tenancy is an actual and imminent threat to other residents or employees.

State or local law which provides greater protections to victims of domestic violence will control. Additionally, Housing Authority may require individuals seeking protection under the above provisions to certify their status as a victim of domestic violence, dating violence or stalking. This certification may be on an approved HUD form (currently HUD-50066), in a court record, or in a signed statement from a professional who has rendered assistance to the victim in connection with the incidents of domestic violence.

XVII. Termination of Lease

The Housing Authority shall terminate or refuse to renew the Lease for: [966.4(l)(2)]

A. Serious or repeated violations of material terms of the Lease, such as:

1. Failure to make payments due under the lease (including rent, air condition charges, utility charges, late fees and maintenance charges). If you are late paying your rent three times in any 12-month period, you may lose your housing.

2. Failure to satisfy Tenant obligations set forth in Section IX above or any obligation under this Lease. [966.4(i)(2)]

3. Failure to supply, in a timely fashion, any certification, release, information, or documentation on Family income, assets, expenses, or composition needed to process annual reexaminations or interim re-determinations. [944.4(c)(2)];

4. Misrepresentation of family income, assets, or composition [966.4(i)(2)];

5. Serious or repeated damage to a dwelling unit, acts of destruction, defacement or removal of Housing Authority property, creation of physical hazards in the unit, common areas, grounds, or parking areas of any project site by Tenant, Household Member or Guest(s);

6. Failure to perform required community service or to be exempted therefrom;

7. Failure to allow inspection of the unit;

8. Determination that a family member knowingly permitted an ineligible non-citizen not listed on the lease to permanently reside in the unit or other noncompliance with non-citizen requirements;

9. Determination or discovery that a resident is a registered sex offender;

10. Failure to maintain current payments on any monies owed a Housing Authority; or

11. Any fire on Authority premises caused by the tenant, household member, or guest's actions or negligence. [966.4(l)(2)]

12. The Tenant's inability, by reason of physical or mental impairment, to comply with the material provisions of this lease after all reasonable accommodations are considered or implemented.

13. Failure to pay Tenant utilities. MHA reserves the right to reconnect utilities into MHA's name, at Tenant's expense, to ensure no damages occur to rental unit, fixtures or equipment.

14. Failure to accept MHA's offer of a lease revision to an existing lease; that is on a form adopted by MHA in accordance with 24 CFR 966.3; with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.

B. Other good cause, including, but not limited to the following:

1. Criminal Activity. The Housing Authority will not tolerate violations of the Lease terms regarding drug abuse and other criminal activity.

a. The following types of criminal activity by the Tenant, any member of the household, a guest, or another person under their control shall be cause of termination of this Lease and eviction from the dwelling unit, even in the absence of an arrest or conviction.

i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the public housing premises by other tenants; or;

ii. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or;

iii. Any drug-related criminal activity on or off such premises.

b. The following criminal activity by the tenant or other household members shall be grounds for termination of the Lease and eviction from the dwelling unit:

i. conviction of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing;

ii. mandatory lifetime registration requirement under a State sex offender registration program;

iii. mandatory registration requirement for any period of time under a State sex offender registration program;

iv. conviction of any criminal sex offense.

c. This policy applies to all residents of the Housing Authority individuals who engage in illegal drug use and/or other criminal activity may be evicted from their dwelling unit after one (1) such offense. Drug-related criminal activity means the illegal manufacture, sale, distribution, use, or possession substance as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802.

d. Any criminal activity or drug-related criminal activity specified above constitutes a serious violation of material terms of the lease and will be

grounds for termination of the lease and eviction from the dwelling unit. Such activity constitutes grounds for termination and eviction notwithstanding the absence of an arrest or conviction.

2, Civil Activity. Any smoking of prohibited tobacco products in restricted areas, as defined by MHA policy and HUD regulations, including 24 CFR 965.653(a), or in any other outdoor areas that MHA has designated as smoke-free. This includes a tenant, member of the tenant's household, guests, or other person under the tenant's control. The smoking of, or use of marijuana is not allowed anywhere on Moline Housing Authority property except in the limited circumstances described in the attached Smoke Free Policy.

3. Violation of any of the MHA policies attached to, and made a part of this Lease.

XVIII. Lease Termination Notice and Procedure

1. The Housing Authority shall terminate this Lease by giving the Tenant advance written Notice of Termination of the Lease of:

   a. 30 calendar days for nonpayment of rent;

   b. 10 calendar days if the health and safety of other residents, MHA employees, or persons in the immediate vicinity is threatened, any member of the household is engaging in drug-related or violent criminal activity, or if any member of the household has been convicted of a felony;

   c. 30-days written notice, except that if a state or local law allows for a shorter notice period (for violations other than non-payment of rent), such shorter notice will be given.

   The Notice to Vacate that may be required under state or local law may be combined with, or run concurrently with the notice of lease termination.

2. The Notice of Lease Termination to the Tenant shall state specific grounds for termination, and shall inform the Tenant of his or her right to make such reply as the Tenant may wish and of Tenant's right to examine Housing Authority documents directly relevant to the termination or eviction. [966.4(l)(3)(ii)] Tenant will receive notification at least 30 days before an eviction for nonpayment of rent is filed, and the housing authority will not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period.

3. When the Housing Authority is required to afford the Tenant the opportunity for a grievance hearing, the notice shall inform the Tenant of the right to request such a hearing in accordance with the Housing Authority's grievance procedures. [966.4(l)(3)(ii)]

4. Any notice to vacate (or quit) which is required by State or local law may be combined with, or run concurrently with, a notice of lease termination under this

section. [966.4(l)(3)(iii)] This notice will state that the tenant has the right to request a reasonable accommodation. The Notice to Vacate shall be in writing and specify that if Tenant fails to quit (move from) the premises within the applicable period, appropriate action will be brought against Tenant, and Tenant will be required to pay the court costs and attorney's fees accrued.

5. When the Housing Authority is required to offer the Tenant the opportunity for a hearing under the Housing Authority's grievance procedure for a grievance concerning the lease termination, the tenancy shall not terminate until the grievance process has been completed or the time for the Tenant to request a hearing has expired. [966.4(l)(3)(iv)]

6. When the Housing Authority is not required to offer the Tenant the opportunity for a hearing under the Housing Authority's grievance procedure and the Housing Authority has decided to exclude such grievance from Housing Authority grievance procedures, the notice of lease termination shall:

    a. State that tenant is not entitled to a grievance hearing on the termination.

    b. Specify the judicial eviction procedure to be used by the Housing Authority for eviction of the tenant and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of the due process as defined in HUD regulations.

    c. State whether the eviction is for a criminal activity or other activity that threatens the health or safety of residents or staff, or for drug-related criminal activity. [966.4(l)(3)(v)]

7. All court cost and legal fees incurred by the Housing Authority in connection with the tenant eviction will be charged to the tenant if the Housing Authority prevails on any part of its legal action against the tenant. Additionally, any expenses the Housing Authority incurs in an attempt to collect any money owed the Housing Authority by the tenant shall be charged against the tenant.

8. When the Housing Authority evicts a tenant from a dwelling unit for criminal activity, the Housing Authority shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the unit so the post office will stop mail delivery. [966.4(l)(5)(iii)(B)]

IX. Waiver

No delay or failure by the Housing Authority in exercising any right under this Lease Agreement, and no partial or single exercise of any such right shall constitute a waiver (post or prospective) of that or any other right, unless otherwise expressly provided herein.

TENANT AGREES THAT ALL THE PROVISIONS OF THIS LEASE HAVE BEEN READ AND ARE UNDERSTOOD AND FURTHER AGREES TO BE

BOUND BY ITS PROVISIONS AND CONDITIONS AS WRITTEN. (SIGNATURE REQUIRED ON PART II OF THE LEASE.)

Part II of the Residential Lease Agreement

Moline Housing Authority

THIS AGREEMENT is executed between the Moline Housing Authority (hereafter called "Housing Authority"), and _____ (hereafter called the "Tenant and when "Tenant" is referred to as "he" it is used in the generic sense to include male/female, singular/plural as appropriate"), and becomes effective as of this date: **(date)**.[966.4 (a)]

1. Unit: That the Housing Authority, relying upon the representations of Tenant as to Tenant's income, household composition and housing need, leases to Tenant, (upon Terms and Conditions set forth in Part I of this Lease agreement) the dwelling unit designated as **(address)**
located in **(MHA property)** consisting of **(BRs)** designated by the Housing Authority as a family unit (and hereinafter called the "premises") to be occupied exclusively as a private residence by Tenant and household. The Tenant UNIT NUMBER is**: (#)** [966.4 (a)]

2. Household Composition: The Tenant's household is composed of the individuals listed below. [966.4 (a)(2)] All members of the household over age 18 shall execute the lease.

NAME	RELATIONSHIP	BIRTHDATE	SOCIAL SECURITY#
1			
2			
3			
4			
5			
6			
7.			
8.			

3. Term: The term of this lease shall be one calendar year, renewed as stipulated in Part I of the Lease.

4. Rent: Initial rent (prorated for partial month) shall be **$000.00.** Thereafter, rent in the amount of **$000.00 per month** shall be payable in advance on the first day of each month, and shall be delinquent after the 5th day of said month.

Monies received from Tenant will be applied to the oldest outstanding debt on Tenant's account.

5. Utilities and Appliances: HOUSING AUTHORITY-Supplied Utilities [966.4 (b)(1)] If indicated by an (X) below, MHA provides the indicated utility as part of the rent for the premises:

[X] Electricity [X] Natural Gas [X] Water/Sewer [ ] Other _____

If indicated by an (X) below, the Housing Authority shall provide the following appliances for the premises:

[X] Cooking Range [X] Refrigerator

6. Charges for Excess Appliances (not applicable to tenants who pay utilities directly to utility supplier) are due per the following: [966.4 (b)(2)]

   a. Tenant's Air Conditioners: An additional charge of **$120.00** will be payable by July 5th for each air conditioner in the premises.

   b. Other Appliances: If checked below, an additional charge of **$00.00 per month** for each month of occupancy for each excess appliance on the premises.

Appliance	Cost Per Month Per Appliance
Operational Freezer/Refrigerator	$9.00
Washer/Dryer	$20.00

7. Security Deposit: Tenant agrees to **pay $250.00 as a security deposit.. (note: does not apply to existing tenants who will retain their original security deposit amount unless they transfer to another unit).** See Part I of this lease for information on treatment of the Security Deposit. [966.4(b)(5)]

8. Execution: By Tenant's signature below, Tenant and household agree to the terms and conditions of Part I and II of this lease and all additional documents made a part of the lease by reference.

   The Tenant, Tenant's spouse, Co-Tenant, and anyone over the age of 18 who signs this Lease Agreement, is jointly and severally liable for all obligations under the Lease, including payment of all rents and charges and any non-monetary responsibilities of the Tenant under Parts I and II of the Lease.

   By the signature(s) below I/we also acknowledge that the Provisions of Parts I and II of this Lease Agreement have been received and thoroughly explained to me/us.

Tenant: _____ **Date:** _____

Spouse:_____ **Date:** _____

Co-Tenant: _____ **Date:** _____

Tenant: _____ **Date:** _____

Tenant: _____ **Date:** _____

Tenant: _____ **Date:** _____

MHA Representative: _____ **Date:**_____

TENANT'S CERTIFICATION

I,_____ hereby certify that I, and other members of my Household, have not committed any fraud in connection with any federal housing assistance program, unless such fraud was fully disclosed to the Housing Authority before execution of the lease, or before the Housing Authority's approval for occupancy of the unit by the Household member. I further certify that all information or documentation submitted by myself or other Household members to the Housing Authority in connection with any federal housing assistance program (before and during the lease term) are true and complete to the best of my knowledge and belief.

Tenant's Signature: _____

Date: _____

ATTACHMENTS:

If indicated by a [X] below, the Housing Authority has provided the tenant with the following attachments and information, which shall be deemed to be incorporated into this lease:

[X] Part I of this Lease
[X] Grievance Procedure (May be updated)
[X] Community Service and Economic Self-Sufficiency Policy
[X] Rent Policy
[X] Resident Charge List
[X] Watch Out for Lead Paint Poisoning
[X] The Danger of Lead Poisoning to Renters
[X] Public Housing Initial Choice of Rent Documentation
[X] Things You Should Know (HUD-1140-OIG)
[X] Violence Against Women Act (VAWA)
[X] Fair Housing
[X] Pet Policy
[X] Park Policy
[X] Parking Policy
[X] Housekeeping Guidelines
[X] A/C Policy
[X] Firearms Policy
[X] Rules and Regulations
[X] Smoke Free Policy

STATEMENT ON RECEIPT OF INFORMATION

I/We have received a copy of the above information including "The Danger of Lead Poisoning to Renter". The above information has been thoroughly explained to me/us. I/We understand the possibility that lead-based paint may exist in the unit.

Tenant _____ **Date** _____

Spouse _____ **Date** _____

Co-Tenant _____ **Date** _____

Tenant _____ **Date** _____

Tenant _____ **Date** _____

NAME OF SITE: Spring Brook (SB) _____ Spring Valley (SV) _____ Hillside Heights (HH) _____

OFFICE ADDRESS: 4141 11th Ave A Moline, IL 61265

OFFICE HOURS: 8:00 a.m. to 4:30 p.m.

OFFICE TELEPHONE NUMBER: (309)764-1819

MAINTENANCE TELEPHONE NUMBER: (309)764-1819

EMERGENCY MAINTENANCE TELEPHONE NUMBER**:** (309)314-4272

EMERGENCIES ARE:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Any plumbing backup at: Spring Valley lower level apartment if the building has a separate upper apartment, or at any Hillside Heights unit on the 8th floor or below

- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

MOLINE HOUSING AUTHORITY

Maintenance & Excess Utility Charges Policy

N/A = Not Applicable
CC = Current Cost

Effective 4/1/2026

Labor $30/hr. or $15/1/2 hr.

Maintenance Task	Material Cost	Labor Cost	Total Cost
SCREEN DOORS			
Replace aluminum door - complete	$400.00	$ 60.00	$ 460.00
Replace door handle	$ 18.00	$ 15.00	$ 33.00
Replace door closure	$ 12.00	$ 15.00	$ 27.00
WINDOW SCREENS			
Replace window screen	$ 10.00	$ 30.00	$ 40.00
New screen & frame	CC	$ 30.00	CC + $22.00
ENTRANCE DOORS			
Replace door	CC	$ 60.00	CC + $60.00
New LSDA lock set	$110.00	$ 30.00	$ 140.00
New Schlage lock set	$104.00	$ 30.00	$ 134.00
Change lock (per lock)	$ 30.00	$ 30.00	$ 60.00
Replace window frame	CC	$ 60.00	CC + $60.00
Replace magnetic weather strip	CC	$ 30.00	CC + $30.00
KEYS/LOCKOUTS/ENTRY CARDS			
Make new key	$ 4.00	$ 15.00	$ 19.00
Unlock after hours	N/A	$ 75.00	$ 75.00
Unlock during hours	N/A	$ 30.00	$ 30.00
Key fob (Entry card replacement)	$20.00	N/A	$20.00
Entry Card Reactivation (no billing allowed)	N/A	$ 20.00	$20.00
INTERIOR DOORS			
Replace closet single bi-fold door	CC	$ 60.00	$ 60.00
Replace closet double bi-fold door	CC	$ 60.00	CC + $60.00
Replace door knob passage	$ 14.00	$ 30.00	$ 44.00
Replace door stops	$ 3.00	$ 15.00	$ 18.00
New Bedroom Door	CC	$ 60.00	CC + $60.00

	New Bathroom Door	CC	$ 60.00	CC + $60.00
	Replace door knob privacy	$18.00	$30.00	$48.00
	Maintenance Task	**Material Cost**	**Labor Cost**	**Total Cost**
	WINDOWS			
	Replace window glass	CC	$ 60.00	CC + $60.00
	Replace balancer	$ 14.00	$ 30.00	$ 44.00
	Replace window lock	$ 4.00	$ 19.00	$ 23.00
	Replace shade or blind	CC	$ 15.00	CC + $15.00
	APPLIANCES			
	Replace entire range	CC	$ 60.00	CC + $60.00
	Replace entire refrigerator	CC	$ 60.00	CC + $60.00
	Range control knobs	CC	$ 15.00	CC + $15.00
	Replace oven door handle	CC	$ 30.00	CC + $30.00
	Replace stove burner	CC	$ 30.00	CC + $30.00
	Replace refrigerator door gasket	CC	$ 30.00	CC + $30.00
	Replace refrigerator kick plate	CC	$ 30.00	CC + $30.00
	Replace refrigerator crisper shelf	$ 40.00	$ 30.00	$ 70.00
	KITCHEN CABINETS AND SINK			
	New kitchen door pull handle	$ 2.00	$ 15.00	$ 17.00
	New door hinges	$ 9.00	$ 15.00	$ 24.00
	Replace cabinets	CC	$30/hr.	CC + $30/hr.
	Replace cabinet doors	CC	$ 30.00	CC + $30.00
	Replace Cabinet Shelf, upper	CC	$ 30.00	CC + $30.00
	Replace cabinet shelf, under sink	CC	$ 30.00	CC + $30.00
	New countertop almond	CC	$ 120.00	CC + $120.00
	Faucet	CC	$ 60.00	CC + $60.00
	End cap	CC	$ 30.00	CC + $30.00
	New strainer basket	$ 2.00	$ 15.00	$ 17.00

Maintenance Task	Material Cost	Labor Cost	Total Cost
BATHROOM			
Replace towel rack	$ 21.00	$ 30.00	$ 51.00
Replace toilet tissue holder	$ 13.50	$ 30.00	$ 43.50
Replace medicine cabinet mirror	CC	$ 30.00	CC + $30.00
New shower curtain rod	$ 7.00	$ 30.00	$ 37.00
Replace toilet seat	$ 12.00	$ 30.00	$ 42.00
New toilet tank lid/Base/Tank	CC	$ 30.00	CC + $22.00
Reattach sink to wall - labor only	N/A	$ 90.00	$ 90.00
Replace sink	CC	$ 90.00	CC + $90.00
Replace lavatory cabinet	$130.00	$ 60.00	$ 190.00
Tub handle - per handle	CC	$ 30.00	CC + $30.00
New soap holder	$ 5.00	$ 30.00	$ 35.00
Replace shower head	$ 6.00	$ 15.00	$ 21.00
Replace tank lever	$ 6.00	$ 15.00	$ 21.00
Tub chain 15" & stopper	$ 3.00	$ 15.00	$ 18.00
Tub spout w/ diverter	CC	$ 30.00	CC + $30.00
Tub stop rock assembley	$ 26.00	$ 30.00	$ 56.00
PLUMBING STOPPAGES			
Unclog washer, kitchen sink, tub and toilet drains w/ a chemical or drain snake	CC	$ 30.00	CC + $30.00
Unclog by removing toilet	CC	$30/hr.	CC + $30/hr.
Outside professional service	CC	CC	CC
EXCESS UTILITY CHARGES			
Air Conditioner	$120.00	$ -	$ 120.00
AC Materials (Move Out Proposed)/AC	$ 25.00	$ -	$ 25.00
Freezers/Refrigerators/yr	$108.00	$ -	$ 108.00
Laundry Card (If Lost)	$ 10.00	$ -	$ 10.00
Visitor Parking Pass (If Lost) - Each	$ 5.00	$ -	$ 5.00
Approved Tenant Washer and/or Dryer/month	$ 20.00	$ -	$ 20.00
Installation or removal of AC		$ 45.00	$ 45.00

Maintenance Task	Material Cost	Labor Cost	Total Cost
ELECTRICAL			
New switch cover or recepticle cover	$ 1.00	$ 15.00	$ 16.00
New switch or recepticle	$ 8.00	$ 15.00	$ 23.00
Replace porch light fixture	$ 47.00	$ 30.00	$ 77.00
Replace bathroom light fixture - 14" 2 bulb	$ 16.00	$ 30.00	$ 46.00
Replace bedroom light fixture	$ 18.00	$ 30.00	$ 48.00
Replace bedroom light fixture glass (wall)	$ 7.00	$ 15.00	$ 22.00
Replace ceiling 12x12 light fixture w/ glass	$ 17.00	$ 30.00	$ 47.00
Replace ceiling 12x12 light fixture glass	$ 6.00	$ 15.00	$ 21.00
GFI recepticle	$ 25.00	$ 30.00	$ 55.00
New cover - cable plate	$ 2.00	$ 15.00	$ 17.00
New bulb - 60 watt	$ 2.00	$ 15.00	$ 17.00
3-way switch	$ 1.00	$ 15.00	$ 16.00
20 amp recepticle	$ 6.00	$ 15.00	$ 21.00
Address-O-Lite	$113.00	$ 30.00	$ 143.00
FLOORS/WALLS			
Replace vinyl floor tile - per sq. ft.	$ 3.00	$30/hr	Sq Ft+$30/hr
Replace cove base	CC	$30/hr	CC + $30/hr
Replace ceramic floor or wall tile - per sq. ft.	CC	$30/hr	CC + $30/hr
Paint interior walls & ceiling	CC	$30/hr	CC + $30/hr
Repair walls or ceiling	CC	$30/hr	CC + $30/hr
Clean walls & ceiling	CC	$30/hr	CC + $30/hr
Remove wall paper per room	CC	$30/hr	CC + $30/hr
HEATING/COOLING			
Replace wall thermostat	$ 31.00	$ 30.00	$ 61.00
Replace wall fin tube covers	CC	$30/hr	CC + $30/hr
EXTERMINATION			
The Authority pays for monthly extermination; however, if resident does not have cabinets and food storage areas empty and ready for spraying, the exterminator will be required to revisit the unit. Residents shall pay all	Monthly Revisit Cost		$ 30.00

exterminator revisit costs		

Maintenance Task	Material Cost	Labor Cost	Total Cost
YARDS/ROOFS			
Remove trash from roof	N/A	$ 60.00	$ 60.00
Remove trash from yard	N/A	$ 30.00	$ 30.00
Tow vehicle (Light) Contractor	N/A	CC	CC
Tow vehicle (Heavy - Over 1 Ton) Contractor	N/A	CC	$ 90.00
Remove Pet Waste	N/A	$ 60.00	$ 60.00
OTHER COSTS			
Tenant damaged/missing S-A/CO Combo - regular	$ 52.00	$ 15.00	$ 67.00
Tenant damaged/missing S-A/CO Combo - hearing i	CC	$ 15.00	CC + $15.00
Battery (damaged/missing) - 9 volt	$ 2.50	$ 15.00	$ 17.50
Curtain rod	$ 8.00	$ 30.00	$ 38.00
Curtain rod bracket	$ 2.00	$ 30.00	$ 32.00
Coat hook	$ 4.00	$ 15.00	$ 19.00
Mail Box	CC	$ 30.00	CC + $30.00
Site call miscellaneous - after hours	CC	$ 65.00	CC + $65.00
MOVE OUT CHARGES			
Remove trash/furniture (Level Pickup Truck Load)	N/A	$120/load	$120/load
Clean floors	N/A	$ 60.00	$ 60.00
Clean windows	N/A	$ 60.00	$ 60.00
Clean bathtub	N/A	$ 30.00	$ 30.00
Clean cabinets	N/A	$ 60.00	$ 60.00
Kitchen sink	N/A	$ 30.00	$ 30.00
Clean toilet	N/A	$ 30.00	$ 30.00
Clean bathroom sink	N/A	$ 30.00	$ 30.00
Clean stove - minor	N/A	$ 40.00	$ 40.00
Clean stove - medium	NA	$ 90.00	$ 90.00
Clean stove - major	N/A	$ 150.00	$ 150.00
Clean refrigerator - minor	N/A	$ 60.00	$ 60.00
Clean refrigerator - medium	N/A	$ 90.00	$ 90.00
Clean refrigerator - major	N/A	$ 150.00	$ 150.00

NOTE: Any items not included will be replacement value and actual labor costs.

NOTE: The charges for material and task are damages above normal wear and tear.
NOTE: The charge for 9-Volt batteries for use in smoke or CO detector is $0.00.
NOTE: All labor charges are $30/hr based on business hours except for after-hour lock outs.

Adopted: _____ effect. 04/01/2026
Resolution Number: _____

APPENDIX J

SCREENING APPLICANTS WHO CLAIM MITIGATING CIRCUMSTANCES

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into MHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, MHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. MHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of Mitigating Circumstances

Evidence of successful rehabilitation;

Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the PHA;

Evidence of successful and sustained modification of previous disqualifying behavior;

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The PHA will consider such circumstances in light of:

- The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
- The applicant's overall performance with respect to all the screening requirements.

APPENDIX K

EIV POLICY

Introduction

The Enterprise Income Verification system (EIV) is intended to provide MHA with a single source of income-related data (up-front verifications) for use in verifying the income reported by residents. HUD is responsible for administering and maintaining the computerized internet based EIV system. MHA will only use the EIV resident data to verify a resident's eligibility for participation in rental assistance housing programs and to determine the level of assistance the resident is entitled to receive.

Significant Deviation

MHA will compare resident provided income data to EIV resident data. Differences greater than $200 per month will be considered significant, and the resident will be notified by MHA in writing of the discrepancy. Residents may protest the EIV data, however, MHA will use the EIV data until the resident provides written third-party verification in support of their protest. **The Authority must use HUD-provided EIV resident data unless there is overwhelming evidence the data is in error**.

Privacy Considerations

MHA will protect the data provided by the EIV system to ensure that it is only used for official purposes and not disclosed in any way that would violate the privacy of the individuals represented in the system data. MHA will restrict access to EIV data only to persons whose duties or responsibilities require access and EIV data will be handled in such a manner that it does not become misplaced or available to unauthorized personnel. Files containing EIV data will be accessible to only authorized MHA personnel. Evidence of any unauthorized access or known security breaches must be immediately reported to MHA's Executive Director who will immediately notify the HUD Field Office. All security violations regardless of whether intentional or unintentional must be reported and documented in writing.

Procedure

Within no more than ninety (90) days of an annual or interim recertification authorized MHA personnel will obtain signed Authorization for the Release of Information/Privacy Act Notice, Form HUD-9886 forms from each member of the household 18 years old or older and who is in the household file. Authorized MHA personnel will then access EIV resident data via the internet and print to a secure printer. EIV data will not be saved to the computer, computer disks, CDs or any other memory device.

MHA will maintain a registry of all persons authorized access to EIV resident data and system and a registry of all persons with access and keys to the secured file cabinets.

EIV resident data files will only be pulled as needed, used then immediately returned and secured by authorized MHA personnel.

Authorized MHA personnel will compare resident provided income data to EIV resident data. Differences greater than $200 per month will be considered significant, and the resident will be notified by MHA in writing of the discrepancy.

Residents may protest the EIV data within ten (10) days of notification; however, MHA will use the EIV data until the resident provides written third-party verification in support of their protest.

MHA must use the HUD provided EIV resident data unless the resident provides overwhelming evidence the data is in error.

For safeguards, MHA's Executive Director or his/her designee will quarterly review the EIV policy, procedures and list of Authority personnel authorized to access the EIV resident data and system. Access to EIV will be terminated immediately for employees who are no longer employed at MHA.

MHA's Executive Director or his/her designee will conduct initial and annual on-going EIV training for all Authority personnel.

APPENDIX L

MOLINE HOUSING AUTHORITY

RULES AND REGULATIONS

MOLINE HOUSING AUTHORITY RULES AND REGULATIONS

The following rules and regulations are in effect for the safety, health, comfort, peaceful occupancy, quiet enjoyment, and general well being of Moline Housing Authority (hereinafter referred to as MHA) tenants. These are general rules outlined from the Admission and Continued Occupancy Policy, the Lease, the Pet Policy, the Air Conditioner Policy, the Maintenance & Excess Utility Charges Schedule and the Parking Policy. MHA believes these rules to be reasonable, necessary and in the tenants' best interest. MHA reserves the right to revise, amend or add to these as necessary.

A. APARTMENT MAINTENANCE CARE:

1) MHA staff, with prior notification, will conduct inspections of the interior and exterior of the unit. Routine pest control will be performed monthly. The tenant shall comply with the Pest Control Procedure. The Pest Control Company staff must enter all units on MHA property once a month or as deemed necessary by MHA staff and the Pest Control Company staff. If the screen door is locked at a tenant's unit, maintenance staff may remove the screen door at the tenant's expense. The household may also receive a lease violation and/or an eviction notice for failure to comply with the Pest Control Procedure and these rules herein. The Pest Control Company notifies MHA occupancy staff of all units posing a problem due to housekeeping issues or units with pest sightings. An inspection notice is sent out to a household where there were housekeeping issues or pests sighted. MHA occupancy staff conducts a housekeeping inspection once a forty-eight-hour notice is delivered to the household. Refer to the Pest Control Procedure for additional information.

2) Good housekeeping practices are required. Garbage needs disposed of on a daily basis. Floors are to be kept swept and mopped. Uncovered food and dirty dishes, which attract roaches, flies and vermin, are not permitted. Clean garments should be hung in closets or placed in drawers. Soiled clothing must be kept in a hamper and laundered promptly to avoid excessive odors and/or fire hazards. If the household doesn't comply with this rule they may be subject to a 10-day Health and Safety eviction notice from MHA.

3) Garbage must be placed in sealed bags and disposed of properly in the dumpsters provided by the Housing Authority. Do not place garbage bags outside the dumpster unit. If one side is full on the dumpster open the other lid. If that particular dumpster is completely full find another dumpster to dispose your garbage. Do not leave any garbage by your front or back door. The tenant may be charged if maintenance staff has to dispose the garbage. Maintenance personnel may dispose all other items outside if they aren't listed under Part A.7 & Part A. 8). The charges are based on the

current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure. For safety and liability reasons removing items from the dumpsters is not allowed and violators may be issued a lease violation and/or an eviction notice.

4) The burning of leaves, trash, etc., is prohibited. Shrubbery and trees shall not be damaged. Breezeways in Spring Valley are to be kept clear at all times for safety and/or in the event of any possible emergency. Items listed in Part A.7) are items that are allowed in Spring Brook and items listed in Part A.8) are items that are allowed in Spring Valley. Barbecue grills cannot be used under the breezeway in Spring Valley or under the porch in Spring Brook. The grill cannot be stored under the Breezeway in Spring Valley or under the porch in Spring Brook when it is hot. If a barbecue grill causes damage on MHA Property the tenant will be liable for the charges. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure. Do not dump charcoal on the grounds of MHA. The charcoal has to cool and then disposed of in a sealed bag in the dumpster.

5) Reasonable care must be taken with all plumbing fixtures. No rags, sweepings, matches, ashes, toys, sanitary napkins, diapers, or other improper materials may be placed in the toilet or other plumbing fixtures. Do not dump grease or any type of food in the kitchen drain. The grease needs to be disposed in a proper container. A strainer should be in place when you are using the sink. The tenant will be liable for the charges if improper items were placed in a plumbing fixture. If there are numerous work order calls because items were placed in the toilet or any plumbing fixture the tenant may be charged additional maintenance labor and material fees. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure. The household may also receive a lease violation and/or an eviction notice for misusing the toilet, kitchen sink, bathroom sink or other plumbing fixture in the unit.

6) Tenants are to maintain the front, rear and side yard in a neat and orderly manner. Sidewalks are to be maintained in a safe condition free of trip hazards. Tenants shall not litter the lawn, walkways, driveways, sidewalks or common areas. If MHA staff is required to pick up litter from lawns, move items that are blocking their pathway while mowing or for other reasons deemed necessary by MHA staff the tenant will be liable for the charges. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure.

7) Items that are allowed to be stored in front or behind a tenant's unit at Spring Brook include: one working bicycle for each household member, folding lawn chairs, resin lawn chairs, small lawn side tables, and one outdoor barbecue grill. All chairs need to be stacked up on top of each other in a neat fashion when they are not being used. Indoor furniture is not allowed to be stored outside a unit (i.e. kitchen table chairs, couches, loveseats, recliners). Tenants and/or household members are not allowed to hang wet clothes outside on MHA property. Maintenance staff may dispose all other items outside if they aren't listed above. The tenant will be responsible for the charges. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure.

8) Items that are allowed to be stored under the breezeway at Spring Valley include: one working bicycle for each household member, folding lawn chairs, resin lawn chairs, small lawn side tables, and one outdoor barbecue grill. All chairs need to be stacked up on top of each other in a neat fashion when they are not being used. Indoor furniture and appliances are not allowed to be stored outside a unit (i.e. kitchen table chairs, couches, loveseats, recliners). Tenants and/or household members are not allowed to hang wet clothes outside on MHA property. Maintenance staff may dispose all other items outside if they aren't listed above. The tenant will be responsible for the charges. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure.

9) Swimming pools, picnic tables, slip and slides, sandboxes, clotheslines, swing sets, slides, benches, covered swings and gliders, and bird feeders are not allowed on MHA property. Birdbaths are not allowed in mowing areas. The birdbath has to be cleaned out on a weekly basis.

10) If a tenant wishes to have additional outlets for cable or phone service Form MHA 355 has to be completed by the tenant and approved by MHA Occupancy staff. A copy of Form MHA 355 will be placed in the tenant's file and a copy of Form MHA 355 will be provided to the company installing additional outlets for cable, Internet or data lines, and/or phone service. The cost of any additional outlets for cable or phone service, Internet or data lines is the responsibility of the tenant. If the cable or phone company needs access to an area that is locked the tenant needs to initiate a work order during maintenance working hours (7:00 a.m. to 2:30 p.m.) requesting assistance at their unit. If the area in which the company needs access isn't in the tenant's unit the tenant needs to contact the office so a forty-eight-hour notice can be sent to the neighbor informing them that maintenance staff will be entering their unit with the phone or cable employees.

11) Tenants are not allowed to paint their unit under any circumstance. Wallpaper and contact paper are not permitted in the unit. Any permanent alterations or installations (such as dividers, wooden or plastic shelves, electrical receptacles, etc.) are prohibited. If MHA staff find this rule has been violated the tenant will be responsible for the labor charges for any work that has to be done to bring the apartment back to rent ready condition. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure.

12) No antennas or satellite dishes are allowed on MHA property. If MHA occupancy staff is informed a tenant has a satellite dish in their unit the tenant will have to remove the satellite dish immediately. The household may also receive a lease violation and/or an eviction notice.

13) Waterbeds are prohibited on MHA property. If MHA staff is informed a tenant has a waterbed in their unit the tenant will have to remove it immediately. The household may also receive a lease violation and/or an eviction notice.

14) Tenants are not allowed to tamper with, remove, destroy, disconnect, or remove batteries from the smoke detector and/or carbon monoxide detector. A first offense may result in a Class A Misdemeanor and any subsequent offense may result in a Class 4 Felony (430 I.L.C.S. 135/15). MHA reserves the right to serve a ten-day Health and Safety eviction and/or serve a lease violation to the household.

15) If an oxygen tank is in a tenants' unit smoking is prohibited by anyone in the unit. The tenant is responsible for obtaining a magnet from the office that states "Oxygen in Use" with a smoking is not allowed symbol. If the tenant, household member, or visitor violates this rule MHA reserves the right to serve a ten-day Health and Safety eviction and/or serve a lease violation to the household.

16) The tenant may be responsible for all damages that occur inside or outside of his/her unit caused by carelessness, neglect or by abuse by any household member and/or visitor. The cost of any damage from abuse or improper use shall be the responsibility of the tenant. If damage is caused by carelessness, neglect or by abuse by a household member and/or visitor the tenant is responsible for reporting the incident to the Police Department.

17) Maintenance staff is available to install air conditioners. Refer to the Air Conditioner Policy for additional information.

18) In the fall and winter months when temperatures are below 60 degrees and the furnace is running, tenants are required to keep windows and doors shut while the heat is on. MHA staff can immediately enter any unit on an emergency basis to close windows if they are observed to be open and the temperature is near or below freezing. Tenants will be liable for the cost of any damages to the unit due to negligence. The charges are based on the current Maintenance & Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure. The household may also be issued a lease violation and/or an eviction notice.

19) Gas cans, propane tanks, kerosene tanks, lighter fluid, gas operated vehicles, and other flammable items are not allowed in the unit. Do not place any item by the furnace or water heater. MHA reserves the right to serve a ten-day Health and Safety eviction and/or serve a lease violation if this rule is violated.

20) A licensed electrician must install ceiling fans if permission is granted from the office. Proof must be provided to the office verifying that the person installing the ceiling fan is a licensed electrician prior to the installation occurring. MHA occupancy staff will retain a copy of the license in the tenant's file. If the tenant has a ceiling fan installed in their unit by someone other than a licensed electrician the ceiling fan will have to be removed immediately and the household may receive a lease violation and/or an eviction notice.

21) A licensed plumber must install washers and dryers, if a reasonable accommodation was approved for the tenant. Tenants are only allowed to have gas dryers. Proof must be provided to the office verifying that the person installing the washer and dryer is a licensed plumber prior to the installation occurring. MHA occupancy staff will retain a copy of the license in the tenant's file. If the tenant has a washer or dryer installed in their unit by someone other than a licensed plumber the washer or dryer will have to be removed immediately and the household may receive a lease violation and/or an eviction notice.

22) Electric space heaters are not allowed in units unless they are connected directly into a wall outlet and away from any material that could create a fire or burn hazard. The resident must be present AT ALL TIMES whenever a space heater is in use. Space heaters cannot be connected to extension cords, power strips or multi-prong devices such as surge protectors. The use of any gas, fuel or propane heaters is strictly prohibited in units.

B. TENANT AND/OR VISITOR BEHAVIOR:

1) The tenant, household member and visitor shall not make any disturbing noise or permit disturbing noise on MHA property. Boisterous conduct by the tenant, household member or the visitor will not be tolerated and may result in a lease violation and/or an eviction notice for the household.

2) Fireworks are not to be stored or used on MHA property. The household may receive a lease violation and/or an eviction notice if this rule is not followed.

3) Parents and residents are held responsible for the conduct and safety of their children and all children visiting. Repeated or serious inappropriate behavior by children of household members or children of visitors will be considered a violation. Repeated or serious inappropriate behavior toward children of the household or children of visitors which jeopardizes their health and safety will result in a lease violation and/or an eviction notice.

4) All children five years of age or younger must be supervised at all times by a responsible adult at the park/basketball area. The following items are not allowed at the park: loud music, fighting, profanity, alcohol, climbing fences, and littering. Any misconduct at the park may result in a lease violation and/or an eviction notice for the household. If any household member is told by MHA staff or a designated agent that park privileges are taken away for a period of time a letter is sent to the head of household informing them of the decision that was made and what the incident was that took place. Refer to the Park Policy for additional information. Children and adults are not allowed to climb on trees, shrubbery, fences, or railings on MHA property.

5) Building entry cards (including laundry room access) must not be given or loaned to persons who are not part of the resident's household. Violation of this rule will result in deactivation of the card by MHA and a lease violation. Deactivation of the card will also occur if the card is used in furtherance of any activity or conduct prohibited by MHA's lease, including the rules and regulations. If deactivated, the card will not be reactivated or replaced until the resident first pays in full a reactivation fee. A payment plan to pay the reactivation fee will not be allowed if the card was deactivated by MHA because of a violation of this paragraph.

6) Heely's, roller blades, roller skates, and skateboards are not allowed in Spring Brook, Spring Valley or Hillside Heights Community Rooms.

7) The use of skateboards is not allowed on Spring Valley, Spring Brook, or Hillside Heights property. Motorized scooters and bicycles (not including wheelchairs) are not allowed on MHA property.

8) The possession, use or distribution of illegal controlled substances, cannabis, or possession of drug paraphernalia (the definition as determined by State or Federal law) on the premises of MHA by a tenant, household member, and/or visitor may result in the immediate eviction of the household. The possession, use or distribution of illegal controlled substances, cannabis, or possession of drug paraphernalia on or off the premises of MHA by a household member may result in the eviction of the household. Arrest or conviction of a Meth crime (the definition as determined by State or Federal law) by a household member is immediate grounds for eviction. If a household member is arrested or convicted of a sex crime the household may be served an eviction notice. Refer to the Smoke Free Policy attached to the lease and to the Admission and Continued Occupancy Policy for additional information.

9) Alcoholic beverages shall not be consumed on the grounds or in common areas on MHA property. Consumption of alcoholic beverages must be confined to the tenant's apartment. Tenants are not allowed to drink alcohol outside their unit. Intoxicated behavior by household members and/or visitors will not be tolerated on MHA property. The household may receive a lease violation and/or an eviction notice for violating this rule.

10) No alcoholic beverages are to be consumed in the Community Room on MHA property. This behavior will not be tolerated and the household may receive a lease violation and/or an eviction notice. Tenants reserving these rooms are responsible for any damage caused by them and their visitors. Refer to the Community Facilities Registration Form 232 and Community Facilities Contract and Rules Form 256, and the Housing Authority Facilities Use Policy.

11) Tenants are not to infringe upon the rights of other tenants. He/she is not to permit any household member and/or visitor to do the same through the use of profane or vulgar language, racial or ethnic slurs, intimidation and/or threats of violence. This behavior will not be tolerated and may result in a lease violation and/or an eviction notice for the household.

12) Tenants must act in a cooperative manner with neighbors, visitors, contractors and the Housing Authority's Staff and cause members of Tenant's household or guests to refrain from acting or communicating in an abusive, threatening or harassing manner toward neighbors, visitors, contractors, and the Housing Authority's staff.

13) Tenants must abide by the MHA Firearms Policy as a condition of their lease. Violation of the policy will result in an immediate eviction notice being served to the household.

14) Persons on the Barred List (posted in all developments and available for viewing at all times) are subject to arrest for Criminal Trespass if they are on MHA property. If a household member or visitor allows someone on the barred list (or someone who is effectively barred by MHA and such bar is communicated to the household) to enter the unit, provides an accommodation, or engages with a barred person while on MHA property, a lease violation and/or an eviction notice may be served to the household.

15) **Tenants are not allowed to have former tenants stay overnight if they have been evicted from MHA property (including involuntary terminations) or owe MHA money.**

16) Tenants cannot permanently hang or affix items on the siding, gutters, alcoves, or soffits on MHA buildings. This also includes hanging anything on the breezeway walls. The vinyl siding could be damaged if brackets, plant holders, pictures, plaques, etc. are affixed to the building. If a tenant hangs any items on the siding, gutters, alcoves, soffits or on the vinyl siding on a MHA building the items will be removed immediately by MHA maintenance staff and the tenant will be charged for the labor. If the building is damaged the tenant will be liable for the cost of repairing the siding or any other damaged area. The charges are based on the current Maintenance and Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure. Tenants cannot use outdoor lighting that requires electrical connection or use any battery-operated lighted display outside their unit. Battery operated inflated decorations are not allowed outside on MHA property. Christmas lights, seasonal, or holiday lights cannot be placed outside the apartment (i.e., bush, outside window frame). MHA reserves the right to serve a lease violation and/or eviction notice if these rules are not followed.

17) Outdoor sun tanning is allowed by household members only. Sunbathing must take place by the household members unit. Swimwear has to be appropriate. Examples of non-appropriate swimwear would be: thong bikinis or swimwear that would be offensive to other tenants. Swimwear that is not allowed at a public pool is not allowed on MHA property. MHA reserves the right to serve a lease violation and/or an eviction notice if this rule isn't followed.

C. VEHICLES:

1) In order to park in permit parking, the vehicle/motorcycle must be registered in Illinois and the household member must have a valid driver's license in order to obtain a permanent parking sticker. Driving such vehicles on sidewalks, curbs or grass is prohibited. The use of any vehicle for pleasure riding on MHA property is prohibited. The tenant and/or the visitor will be liable for any damages if grass has to be replaced or if ruts in the ground have to be filled because of the negligence or destructive behavior of the tenant and/or their visitor. Boats, campers, motor homes, pop up trailers, and other trailers (including semis) may not be parked or stored on MHA property. Electric or gasoline powered motorized scooters and bicycles (not including wheelchairs or associated equipment) are not allowed on MHA property. Refer to the Parking Policy for additional information. Repeated violations of the Parking Policy shall be grounds for lease termination.

D. PETS:

1) Refer to the Pet Policy for additional information. The feeding of wild and stray animals is strictly prohbitied.

E. MISCELLANEOUS:

1) Emergency maintenance requests outside of maintenance working hours should be called in to the **EMERGENCY MAINTENANCE** number, which is **309-314-4272**. All other requests should be called in to 309-764-1819 x310 between the hours of 8:00 a.m. to 2:30 p.m. Monday through Friday. Requests for work orders can also be made in person at the Spring Brook office or at the Hillside office when staff is present.

2) Complaints should be submitted on complaint forms, available at the Spring Brook office or when staff is present at the Hillside Heights office. Housing Authority personnel will address each written and signed complaint within 10 business days or 2 business days from when the complaint was received dependent upon the severity.

3) Tenants are encouraged to submit suggestions in the suggestion drop box at Spring Brook. Suggestion forms can be obtained from the Spring Brook office during open working hours or at the Hillside Heights office when staff is present. Suggestion forms can be mailed to a tenant if requested.

4) All court cost and legal fees incurred by the Housing Authority in connection with a tenant eviction will be charged to the tenant if the

Housing Authority prevails on any part of its legal action against the tenant. Additionally, any expenses the Housing Authority incurs in an attempt to collect any money owed the Housing Authority by the tenant shall be charged against the tenant.

F. ADDITIONAL RULES FOR HILLSIDE HEIGHTS:

1) The following rules only pertain to Hillside Heights:

   a) In case of a fire or tornado, elevators are not to be used.

   b) All emergency Evacuation Routes are posted on all floors with emergency lighting on the ceiling by the elevators.

   c) Emergency exit doors are located at the end of all hallway floors 2 thru 9. These doors are only to be used in case of an emergency.

   d) The second floor has an exit at the back of the building by the elevator for general use. Tenants and household members are not allowed to prop the back door open intentionally so someone can enter the building. The household may receive a lease violation and/or an eviction notice if this rule isn't followed.

   e) The first floor has one Emergency Exit that can only be used in case of an emergency. There are three additional exit doors for general use and emergency use as well.

   f) Apartment doors are to be closed at all times unless there is an emergency. Except for an emergency evacuation, apartment doors are not to be opened to let out smoke from inside a unit. If a door is opened for said purpose, the tenant will be responsible for any and all damage and costs resulting from the activation of common area fire alarms, including charges imposed by the fire department. The tenant may also receive a lease violation and/or an eviction notice.

   g) Garbage must be wrapped and sealed when the bag is placed in the garbage chute. Large items need to be disposed of in the dumpster. Boxes which have been broken down need to be disposed in the dumpster. These items are not allowed in the garbage chute. No one is allowed to enter the garbage chute under any circumstance. If the tenant, household member or visitor enters the garbage chute the household will receive an eviction notice. There are "Do Not Enter" signs posted at all garbage chutes.

   h) Tenants and/or visitors are not allowed to park a vehicle in back of the building for longer than ten minutes. The tenant and/or visitor

can only park behind the building if furniture is being delivered; large items need to be carried in the building, if a tenant is moving in or out, or in case of an emergency. The household may receive a lease violation and/or an eviction notice if the tenant and/or visitor violate this rule. Refer to the Parking Policy for additional information.

i) Apartment doors to the hallway are not to have any signage, decorations, photos, or messages placed on them or left hanging on the doorknobs.

j) Tenants, household members, and visitors are not allowed to run in hallways or misuse elevators by riding up and down. The tenant is responsible for the behavior of their visitors up until the time the visitor leaves MHA property. The visitor has to be with the tenant at all times while on MHA property or the visitor may be arrested for criminal trespass.

k) Street clothes are required in all common areas. Pajamas and slippers are not to be worn in any common area.

l) Tenants are responsible for cleaning up after themselves and their visitors. If a tenant, household member or visitor made a mess in a common area it is the tenants' responsibility to clean it up. If maintenance staff has to clean up the mess the tenant will be charged according to the Maintenance and Excess Utility Charges Schedule. All charges incurred must be paid in accordance with the Repayment Procedure.

m) The furniture that is located in a common area needs to be treated with respect. Tenants and/or visitors are not allowed to prop their feet, legs, or any other body part on furniture. Items in common areas (i.e. televisions, books, chairs) are not reserved for specific tenants. The household may receive a lease violation and/or an eviction notice if they break this rule.

n) Tenants are not allowed to let anyone in the building unless that person is there to visit them. Tenants need to be sure no one is entering the building behind them. If a household member lets someone in the building that is unauthorized to be there the household may receive a lease violation and/or an eviction notice. Visitors are not allowed to enter the building unless the household member they are visiting lets them in. Tenants are responsible for all actions of their visitors, guests, AND/OR ANY OTHER PERSON granted entry by the tenant into the building, until said visitor, guest,

or person completely leaves MHA property. Exceptions should be made for any law enforcement agent or fire department official.

o) Household members are not allowed to loan out their apartment key or key fob to visitors. If a household member allows a visitor to use their key fob to enter the building a lease violation and/or an eviction notice may be served to the household.

p) One working bicycle per household member can be stored in the bike rack outside the HH building. Items are not allowed to be stored outside any Hillside Heights apartment unit. MHA reserves the right to dispose any items that are left outside an apartment unit if the items are not listed above. Lease violations and/or eviction notices will be served to households if this rule is violated.

q) There is no smoking allowed indoors or within 25 feet of MHA buildings. Refer to the MHA Smoke Free Policy for details. The household may receive a lease violation and/or an eviction notice for not complying with or by not enforcing this rule with their visitor.

r) The covered patio in the back of Hillside Heights closes at 9:00 p.m. Tenants are responsible for cleaning up after themselves anywhere on MHA property. Alcoholic beverages are not to be consumed outside or in common areas on MHA property. A lease violation and/or an eviction notice will be served to households who do not comply with this rule.

APPENDIX M

MOLINE HOUSING AUTHORITY

PARKING POLICY

MOLINE HOUSING AUTHORITY

PARKING POLICY

The purpose of this policy:

1. To establish operating procedures to provide safe, reasonable and fair guidelines for each Moline Housing Authority (MHA) property, and
2. To ensure acceptable and convenient parking arrangements for the residents of the Moline Housing Authority.

A. PARKING MANAGEMENT:

The MHA will follow any local, state and federal government codes/laws applicable to Moline Housing Authority properties. MHA authorizes its personnel and the Moline Police Department to issue parking notices, warnings, authorization to tow notices, and parking tickets, as applicable. There is NO FREE parking on MHA properties. As described in this Policy, all residents, guests, and visitors must have an authorized permit or pass on their vehicle in order to park on MHA property. Each resident has been issued visitor passes, so the resident is fully responsible for providing a pass to their visitors AND directing them to the designated visitor parking areas. Pursuant to handicap accessibility, and state & federal laws, the Moline Housing Authority may, in its discretion, assign designated handicap parking spaces to specific units. Each violation of this Parking Policy could result in a lease violation and/or termination of the lease, in addition to the charges and sanctions imposed in the Policy.

1. Resident Parking Permits

a. *Resident Registration Procedures and Rules*:

- A resident must apply at the MHA Spring Brook Administration Office to register a vehicle. The permit will be registered to a specific vehicle, and the resident must provide information for the make, model and year of the vehicle.
- The following documents are also required to register:
    - Valid state-issued driver's license,
    - Current Illinois vehicle registration (no out-of-state license plates allowed),
    - Proof of vehicle insurance.

b. *Permanent Resident Permits*:

- Only one (1) vehicle per registered driver on the lease is allowed.
- Vehicles are only allowed to be registered in one complex. If a registered vehicle is parked in a different MHA complex, it will be subject to tow. If you transfer to a different MHA site, please remember to re-register your vehicle for the new site.

- The tenant vehicle will be given a Permanent Parking Sticker and will be entered in our MHA vehicle log. Your parking sticker should be affixed to the lower corner of the passenger-side, rear window. In case of very dark tinted windows or tinted areas, the decal should be placed in a non-tinted area, or placed in the lower right corner of the front window on the passenger's side in plain view.
- Old and expired parking stickers must be removed from your vehicle. Vehicle stickers are registered to a specific vehicle and are invalid if transferred to another vehicle. At move-out, the parking sticker must be removed because it will no longer be valid. A vehicle is subject to tow if parked on MHA property with an invalid parking permit.

c. *Temporary Resident Parking Permits*

- Temporary resident parking permits are for residents only, not guests. They may be obtained by visiting the MHA Spring Brook Administration Office during regular business hours. The temporary permit will be registered to a specific vehicle, and the resident must provide information for the make, model and year of the vehicle.
- Temporary resident parking permits are valid for only two (2) weeks, but may be renewed one time with a valid explanation, such as for a resident who has moved in from another state and needs 30 days to complete a new Illinois vehicle registration.
- Temporary resident permits may be used for a tenant's borrowed vehicle or a rental vehicle, and may not be used to substitute for a resident's inability to qualify for a permit on their regular vehicle
- A vehicle with an expired temporary resident permit is subject to tow.
- Residents with a valid, temporary resident permit are allowed to park in tenant parking areas.

2. Overnight Guest/Visitor Hanging Parking Tags:

- Two visitor hanging parking tags will be issued to every tenant at move-in. They are to be used for overnight guests/visitors only, and must not be used for the residents' vehicles.
- Vehicles with valid visitor hanging tags are restricted to parking in the designated VISITOR PARKING areas only. If found in a tenant parking area, the vehicle is subject to tow. All residents are responsible for informing their guests of this important parking restriction.
- Once used, a visitor hanging parking tag is valid for thirty (30) calendar days per year, and no more than fourteen consecutive days with any one vehicle. A visitor parking tag will automatically be invalidated after expiration of either of those time frames. A vehicle discovered with an invalid visitor tag is subject to tow. A lease violation and possible eviction may also result if MHA determines that an unauthorized resident is living in a unit.
- The visitor tag will include the address of the authorized tenant on the front and back of the tag. This will allow MHA staff to locate the tenant whose visitor's vehicle is parked on the premises in case of an emergency, or for other reasons deemed necessary by housing staff.

- If a visitor parking tag is lost or invalidated, there will be a $5.00 fee for a replacement tag.

3. Caregiver Parking Permits/One-Day Passes:

- If a resident has a registered caregiver, they must contact the MHA Spring Brook Administration Office for parking instructions. Upon request, special permits may be issued to caregivers on a monthly basis.
- Caregivers must provide the name and address of the unit they will be visiting. They must also provide information for the make, model and year of their vehicle. Caregivers are allowed to park in tenant permit parking areas or visitor areas as long as a valid caregiver parking permit is visible on the windshield. The permit should be clearly displayed on the dashboard at the bottom of the front window on the driver's side.
- Residents reserving a community room must obtain one-day passes for their visitors when the resident picks up the community room key. One-day passes will not be issued outside of regular MHA business hours and will not be provided by Maintenance Staff. Event visitors with a one-day pass MUST park in designated visitor parking lots only, and clearly display the pass on the dashboard at the bottom of the front window on the driver's side.

B. <u>VEHICLE TOWING AND TICKETING:</u>

- Resident satisfaction is an absolute and integral part of our parking control program. As such, vehicle towing is a task not taken lightly, and MHA policies have been created with an emphasis on fairness, prudence, empathy, and a strong regard for property, resident safety, and integrity.
- The Moline Housing Authority contracts with an independent towing company for towing services. In the event the owner or operator of a vehicle in the process of being towed appears on the scene, the towing contractor has been instructed that once the vehicle is engaged, the tow will continue subject to the discretion of the tow contractor.
- Towing expenses and vehicle recovery are the responsibility of the vehicle owner and/or operator.

1. The following situations can result in an IMMEDIATE TOW if noticed by, or brought to the attention of MHA staff:

- Unattended vehicles parked in streets, alleys, or dumpster areas.
- Unattended vehicles parked for over ten (10) minutes in a designated drop-off zone (also subject to ticketing by the Moline Police Department if the vehicle exceeds local parking time limits).
- Vehicles parked in a roadway or alley that block traffic or legally parked vehicles.
- Vehicles parked in another resident's designated parking space.
- Vehicles with hazardous fluid leaks.
- Vehicles parked in fire lanes, along yellow curbs, or in front of a fire hydrant.

- Vehicles deemed in an unsafe condition (e.g., car on a jack unattended).
- Vehicles parked in posted No Parking Areas.
- Vehicles parked on lawns or sidewalks (including motorcycles).

2. The following situations will result in a One (1) WARNING STICKER being placed on a vehicle (an oral warning from MHA staff is equivalent to a sticker), followed by a tow the next day or on any later date if the warning is ignored or the violation repeated:

- Any vehicle without a resident parking permit or visitor tag.
- Any vehicle with an invalid or expired resident parking permit or visitor tag.
- Any VISITOR vehicle parked in a resident permit parking area, even if it has a proper visitor tag.
- Any resident vehicle which is improperly using a visitor tag to avoid compliance with this Parking Policy, even if parked in a visitor lot.
- Any vehicle with expired license plates or license plate renewal stickers.
- Any vehicle illegally parked in a designated handicapped parking space (also subject to immediate ticketing by the Moline Police Department), the striped access aisle adjacent to a handicapped parking space, or in a designated MHA employee-only space.
- Prohibited vehicles such as boats, recreational vehicles, trailers and campers over one ton
- Vehicles in disrepair or inoperable.
- Stored or abandoned vehicles of any kind.
- Vehicles used for business purpose that carry/contain hazardous materials, such as gasoline tanks/containers, and/or noxious fumes such as roofing tar, acids, etc.

C. GENERAL PARKING RULES

- As a result of limited parking spaces and to minimize vehicle congestion, each licensed resident is permitted to register and park a maximum of one (1) vehicle on MHA property.
- ALL parking on MHA properties requires some type of sticker or temporary tag. There are no free visitor areas to park. Residents and visitors who are unable to park on MHA grounds in accordance with the rules stated in this Parking Policy should park in nearby neighborhoods on a public street rather than risk an expensive tow.
- When temporarily parking for a few moments outside of a designated parking area, e.g., to unload or load a vehicle, the driver should turn on the vehicle's flashers to signify to MHA staff that the vehicle's position is momentary and that it should not be immediately towed. The blocking of roads is never allowed and will result in an immediate tow.
- Residents are responsible for securing valid parking passes for their guests, directing them to the designated visitor parking lots, and informing them of MHA parking rules and restrictions.

- Residents reserving a community room must obtain one-day passes for their visitors when the resident picks up the community room key. One-day passes will not be issued outside of regular MHA business hours and will not be provided by Maintenance Staff. Event visitors with a one-day pass MUST park in designated visitor parking lots only. Any visitor without a pass, or who parks in regular tenant parking areas is subject to immediate tow. Persons waiting to be added to a lease are not residents until they are officially on the lease, and thus, are subject to the rules on visitor parking.
- All vehicles must be licensed and operational according to Illinois State Law. If a resident's driver's license or license plates are not current or valid, their parking sticker can be voided and they can be towed.
- Commercial vehicles, recreational vehicles, boats, trailers and inoperative vehicles must not be parked on PHA premises.
- Notices to temporarily vacate parking areas for maintenance of facilities or special events must be followed. In the event your automobile is not moved after prior written or posted notice, and it interferes with a maintenance or other operation, it will be moved or towed at the vehicle owner's expense.
- MHA is not liable for any damage resulting from failure to move a vehicle, including damage caused by a tow.
- MHA is not liable for, or responsible for removing a Warning Sticker placed on a vehicle.
- No part of the MHA premises shall be used for servicing any vehicle, including changing oil by any resident or their guest. Residents are allowed to change a flat tire and jump start a vehicle, but flat tires must be repaired within five (5) days from the date a warning sticker is placed on a vehicle, or from the date a letter is sent by MHA staff, whichever first occurs.
- MHA has the right to clean the premises of fluids and other discharges from vehicles and charge such cleaning costs to resident(s).
- MHA is not responsible for any vehicle or its contents. Vehicles should be locked at all time while on MHA property.
- Motorized vehicles that cannot be driven on public streets and public ways without a license are prohibited from being operated on MHA grounds unless properly licensed. "Licensing" for purposes of this Parking Policy includes all state and local requirements, plus the MHA requirements for registering a vehicle.
- No motorcycle, minibike, motorized gas-operated cycle or bicycle, or moped is to be stored on patios, balconies, in apartments, under stairways or in any other area except as designated by MHA.
- Only hand washing of vehicles is permitted. No hoses that are attached to Moline Housing Authority property are allowed when washing a vehicle.
- Vehicles will be randomly checked for parking permits/tags at any time, including holidays and weekends.

APPENDIX O

MOLINE HOUSING AUTHORITY

PARK POLICY

Moline Housing Authority

Kathy York Memorial Playground/Park Policy

General Park Guidelines

The purpose of this policy is to establish procedures and rules to provide safe, reasonable, and fair guidelines for the use of the Kathy York Memorial Playground/ Park & for the betterment of the Moline Community.

Infractions of rules are subject to immediate enforcement. Moline Police Department & Moline Housing Authority personnel will monitor compliance.

In order to best serve the residents, the following of these rules enforces park guidelines.

- No Littering: All persons are required to pick up their own refuse and garbage by placing items in a waste receptacle.
- No glass containers allowed on the basketball court or in the park area.
- All children under five (5) year of age must be supervised at all times.
- Residents will be responsible for any damage(s) to the park by their children or guests.
- No alcohol beverages in any type of containers.
- No fence climbing on Moline Housing Authority property.
- No vandalism to park equipment, tables, benches, lights and video cameras, etc.
- No loud music or music with profanity.
- No profanity.
- No fighting.
- All bicycles must be placed in the bike rack.
- Violators are subject to prosecution.

Park Hours:

Moline Housing Authority Park closes at 10:00 p.m. nightly.

APPENDIX O

MOLINE HOUSING AUTHORITY

FIREARMS POLICY

MOLINE HOUSING AUTHORITY

FIREARMS REGISTRATION and CONCEALED CARRY FIREARM ACT POLICY

Effective April 1, 2020, the Moline Housing Authority adopts this FIREARMS REGISTRATION and CONCEALED CARRY FIREARM ACT POLICY and incorporates it into the MHA Residential Lease Agreement as an attachment to the lease.

I. Firearms Registration Policy

Residents who own and/or possess a firearm or ammunition are required to have it registered.

Registration shall be defined as possession of a valid Illinois Firearms Owner's Identification Card as defined in the Firearms Owner's Identification Card Act, 430 ILCS 65/0.01 et. seq., and written permission from the Moline Housing Authority (MHA).

The term "firearm" shall mean any device whatever name known, which is designed to expel a projectile by the action of an explosion, expansion of gas, or escape of gas, as defined in the Firearms Owner's Identification Card Act, 430 ILCS 65/0.01 et. seq.

The term firearm "ammunition" shall mean any self-contained cartridge or shotgun shell by whatever name known, which is designed to be used or adaptable to use in a firearm, as defined in the Firearms Owner's Identification Card Act, 430 ILCS 65/0.01 et. seq.

II. Concealed Carry Firearm Act Policy

The resident and all members of the household are obligated to refrain from any act or keep any member of the household, a guest or other person under the resident's control from displaying, carrying, discharging, or threatening the use of a firearm or other weapon while on or near the property of the Moline Housing Authority. The fact that a firearm or other weapon is nonfunctional or inoperable shall not be a defense to a violation of this paragraph or the Firearms Policy. This paragraph shall not interfere with a resident's lawful right to possess a legal firearm within the confines of the resident's dwelling unit. Residents who have an Illinois Firearm Owners Identification Card or an Illinois Concealed Carry license may carry their firearm directly to and from their dwelling unit and vehicle provided that they carry the firearm unloaded in a carrying case or disassembled and in a non-threatening manner. Under no circumstances is a resident, any member of the household, a guest, or other person under the control of the resident, permitted to wear a holstered or concealed firearm on or near the property of the Moline Housing Authority.

Residents shall have available for inspection a copy of any permit, license, or other documentation required by state, local, or federal law for the ownership, possession, or transportation of any firearm or other weapon, including a license to carry a concealed firearm as required by the Illinois Firearm Concealed Carry Act, upon request when there is

a reasonable cause to believe that the law has been violated. In addition, residents shall provide written notification to the Spring Brook Management Office that they have a firearm and/or ammunition in their unit that is required to be registered under state, local, or federal law, or this Firearms Policy. Such notification (registration) shall be made within 24 business hours of the device(s) being in the dwelling unit.

Violation of this FIREARMS REGISTRATION and CONCEALED CARRY FIREARM ACT POLICY shall constitute a serious violation of the lease and shall be considered a threat to the health and safety of other residents and employees of the Moline Housing Authority.

APPENDIX P

MOLINE HOUSING AUTHORITY
SMOKE FREE POLICY

Moline Housing Authority

Smoke Free Policy

I. Tobacco Products

The Department of Housing and Urban Development (HUD) has issued a final rule requiring all public housing authorities to establish a policy disallowing the use of prohibited tobacco products in all restricted areas. This policy is expected to improve indoor air quality; benefit the health of public housing residents, visitors, and staff; reduce the risk of catastrophic fires; and lower overall maintenance costs.

The use of tobacco products is prohibited inside all indoor areas of public housing, including but not limited to living units, indoor areas, laundry rooms, community facilities, day care centers, electrical closets, storage units, administrative office buildings, and in all outdoor areas within 25 feet of the housing and administrative office buildings.

Tobacco products is defined as all "prohibited tobacco products." HUD defines all prohibited tobacco products as all tobacco products that involve the ignition and burning of tobacco leaves such as cigarettes, cigars, pipes, and water pipes (also known as hookahs).

This policy does not supersede state or local smoking bans.

II. Medical Marijuana

1. In compliance with federal law under the Quality Housing and Work Responsibility Act of 1998 (QHWRA), the Moline Housing Authority (MHA) will continue to prohibit the admission of individuals based on the illegal use of a controlled substance including medical marijuana as set forth in the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 et. seq.).

2. MHA will continue to exercise its discretion under:

   a. The Admissions and Continued Occupancy Policy (ACOP) and 24 C. F. R. Section 966.4 (1)(5)(vii (B) and (C) in deciding to terminate a tenant for illegal drug use including medical marijuana as set forth in the Compassionate Use of Medical Cannabis Pilot Program Act; and

   b. The Administrative Plan and 24 C. F. R. Section 982.552 (c) (2) (i) in deciding to terminate assistance for illegal drug use including medical marijuana as set forth in the Compassionate Use of Medical Cannabis Pilot Program Act.

3. Current residents using medical marijuana are not subject to automatic termination. QHWRA provides the MHA with the discretion to consider all circumstances and determine on a

case by case basis when it is appropriate to terminate assistance. The MHA will exercise its discretion by considering but not limited to the following factors:

a. Possession of a valid Registry Identification Card.

b. Compliance with the MHA No Smoking Policy.

c. Compliance with the rules and regulations of the Compassionate Use of Medical Cannabis Pilot Program Act. (410 ILCS 130/1 et. seq.).

d. MHA retains the discretion to consider any and all other factors it deems relevant in making the decision to terminate assistance.

4. The MHA fully supports and adheres to the Fair Housing Act, (FHA), Section 504 of the Rehabilitation Act (Section 504) and Title II of the American with Disabilities Act (ADA); however, “illegal drug use” under Section 504 and the ADA is determined exclusively by reference to the Controlled Substance Act with includes marijuana. Under federal law, the use of medical marijuana is illegal and therefore does not qualify an individual for a reasonable accommodation.

MHA AIR CONDITIONER POLICY

Starting in 2018 the air conditioner policy is being revised to include the following updates. Air conditioners that are properly installed in an acceptable window will be allowed year round for Spring Brook, Spring Valley, and Hillside Heights.

Form MHA 352 must be completed and turned in to the Occupancy Department to request air conditioner installation. A $120.00 Excess Utility Fee will be charged per air conditioner (this includes both window and portable air conditioner units) per year regardless when the air conditioner is installed. The Excess Utility Fee must be paid in full by July 5th of each year. If the tenant fails to pay the Excess Utility Fee in full by July 5th of each year a $25.00 late fee will be applied to their account. If a tenant requests an air conditioner on or after July 5th the Excess Utility Fee of $120.00 has to be paid prior to installation of the air conditioner.

Maintenance staff will not charge to install air conditioners for the initial installation, if the resident has a disability on file, or if the resident is elderly. All other air conditioner installations and removals will be charged to the resident if performed by maintenance staff. All window materials will be furnished free on new installations. The materials must be saved by the tenant. If the materials are not saved for upcoming years the tenant will be charged for replacement costs of the materials based on the current Maintenance & Excess Utility Charges Schedule. The air conditioner needs to be in front of the window and ready to be installed. If a tenant has recently purchased an air conditioner make sure that the air conditioner is removed from the box and is assembled correctly. Maintenance will not assemble air conditioners. Air conditioners cannot be installed in, or vented through casement windows (crank out windows) or in egress (exit) windows, such as windows in bedrooms containing only one window. If a resident chooses to remove the air conditioner from the window for any reason other than replacement, the resident will be responsible for the reinstallation.

Upon completion of form MHA 352 the Occupancy Department will initiate a work order for the air conditioner installation if necessary. All work orders will be processed in the order they are received considering the availability of maintenance personnel. Once the tenant has been placed on the list the installation will go according to the date form MHA 352 was submitted to the office. Tenants with documented medical reasons will be given priority on the air conditioner installation list. If the tenant installs the air conditioner without completing form MHA 352 the Excess Utility Fee of $120.00 is due immediately and a work order will be generated to make sure the air conditioner was installed correctly.

All air conditioner units (window and portable) must meet MHA approved guidelines (B.T.U. rating, 110 volt, size, weight, and shape). The air conditioner must be 10,000 B.T.U. or below starting January 1, 2009. If an extension cord is used for the air conditioner it must be rated for an air conditioner or maintenance will not be able to install the air conditioner until an extension cord that is rated for an air conditioner is provided.

Spring Valley residents: There is a receptacle in the apartment that is dedicated for the air conditioner unit. The air conditioner unit has to be plugged into the dedicated receptacle. Extension cords are not allowed to be used with air conditioning units in Spring Valley.

***MHA is not responsible for the maintenance, operation, or repair of the tenant's air conditioner(s).**

***MHA is not liable for any damages incurred to air conditioners during installation.**

***MHA will not install air conditioners that are not safe (i.e. frayed cords, burnt plugs, air conditioners in need of internal cleaning that do not drain condensate water properly. If internal water damage from the air conditioner(s) causes damage to the wall or floor because the air conditioner unit wasn't draining properly the tenant will be responsible for all damages incurred.**

Moline Housing Authority Housekeeping Guidelines

In an effort to improve the livability and conditions of the apartments owned and managed by the Housing Authority, uniform standards for resident housekeeping have been developed for all tenant families.

1. Housing Authority Responsibility: The standards that follow will be applied fairly and uniformly to all Tenants. The Housing Authority will inspect each unit at least annually, to determine compliance with the standards. Upon completion of an inspection, the Housing Authority will notify Tenant in writing if he/she fails to comply with the standards. The Housing Authority will advise Tenant of the specific correction(s) required to establish compliance, and indicate that training is available. Within a reasonable period of time, the Housing Authority will schedule a second inspection. Failure of a second inspection will constitute a violation of the lease terms.

   Training will be available at no cost to any Tenant requesting or needing assistance in complying with the Housekeeping Standards.

2. Tenant responsibility: Tenant is required to abide by the standards set forth below. Failure to abide by the Housekeeping Standards that results in the creation or maintenance of a threat to health or safety is a violation of the lease terms and can result in eviction.

3. Housekeeping Standards: Inside the Apartment

   General

   a. Walls should be clean, free of dirt, grease, holes, cobwebs, and fingerprints.

   b. Floors should be clean, clear, dry and free of hazards.

   c. Ceilings should be clean and free of cobwebs.

   d. Windows should be clean, not nailed shut, and free of obstructions that could hinder ingress or egress in case of emergency. Shades or blinds should be intact.

   e. Woodwork should be clean, free of dust, gouges, or scratches.

   f. Doors: should be clean, free of grease and fingerprints, and free of obstructions that could hinder ingress and egress. Doorstops should be present. Locks should work.

g. Heating units should be dusted and access uncluttered.

h. Trash shall be disposed of properly and not left in the unit.

i. Entire unit should be free of rodent or insect infestation, including but not limited to bedbugs, roaches, and fleas.

j. Entire unit should be clean, uncluttered and free of hazards.

Kitchen

a. Stove should be clean and free of food and grease. All burners should operate properly.

b. Refrigerator should be clean. Freezer door should close properly and freezer should have no more than one (1) inch of ice.

c. Cabinets should be clean and neat. Cabinet surfaces and countertop should be free of grease and spilled food. Cabinets should not be overloaded. Storage under the sink should be limited to small or lightweight items to permit access for repairs. Heavy pots and pans should not be stored under the sink.

d. Exhaust Fan should be free of grease and dust.

e. Sink should be clean, free of grease and garbage. Dirty dishes should be washed and put away in a timely manner.

f. Food storage areas should be neat and clean without spilled food

g. Trash/garbage should be stored in plastic bags in a container until removed to the disposal area.

h. All excess moisture that could lead to mildew and mold should be minimized, and mildew or mold that becomes evident shall be eliminated immediately.

Bathroom

a. Toilet and tank should be clean and odor free.

b. Tub and shower should be clean and free of excessive mildew and mold. Where applicable, shower curtains should be in place, and of adequate length.

c. Lavatory should be clean.

d. Exhaust fans should be free of dust.

e. Floor should be clean and dry.

Storage Areas

a. Linen closet should be neat and clean.

b. Other closets should be neat and clean. No flammable materials should be stored in the unit

c. Other storage areas should be clean, neat and free of hazards.

Housekeeping Standards: Outside the Apartment

The following standards apply to outside the apartment only; some standards apply only when the area noted is for the exclusive use of Tenant:

a. Yards should be free of debris, trash, and abandoned cars. Exterior walls should be free of graffiti.

b. Porches (front and rear) should be clean and free of hazards. Any items stored on the porch shall not impede access to the unit.

c. Steps (front and rear) should be clean, and free off hazards.

d. Sidewalks should be clean and free of hazards.

e. Storm doors should be clean, with glass or screen intact.

f. Parking lot should be free of abandoned cars. There should be no car repairs in the lots.

g. Hallways should be clean and free of hazards.

h. Stairwells should be clean and uncluttered.

i. Laundry areas should be clean and neat. Remove lint from dryers after use.

j. Utility room should be free of debris, motor vehicle parts, and flammable materials. Storage of any material is not allowed in utility rooms if it is closer than 18 inches to a water heater or furnace.