

# **MIAMI Metropolitan Housing Authority**

## **Housing Choice Voucher Program Administrative Plan January 1<sup>st</sup>, 2024 Effective**

**\*All HOTMA related policy changes will be effective September 1, 2024 and MMHA will then be fully compliant by January 1, 2025**

Approved: December 21, 2023

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**CHAPTER 1  
STATEMENT OF POLICIES AND OBJECTIVES**

**INTRODUCTION**

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

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

**Jurisdiction**

The jurisdiction of MMHA is all of Miami County.

**A.HOUSING AUTHORITY MISSION STATEMENT**

To be leader in the housing industry by providing exceptional housing opportunities while achieving high levels of customer satisfaction, promoting self- sufficiency and neighborhood stability, and being a long-term asset to the community. We will achieve this by developing public/private partnerships and creating entrepreneurial opportunities and by employees and residents holding themselves to our Gold Standards of Excellence.

**B.LOCAL GOALS [24 CFR 982.1]**

**1. MMHA Goal: Expand the footprint supply of quality affordable housing.**

**Objectives:**

- Leverage private or other public funds and seek partnerships to create additional or improved housing opportunities.
- Explore the use of Project Based Vouchers as a strategy to improve the quality of rental housing for assisted housing customers.

**2. MMHA Goal: Improve the quality of affordable housing.**

**Objectives:**

Maintain efficient voucher management: Maintain High- performer SEMAP rating.

- Remove non-compliant property owners and
- Increase customer satisfaction by concentrating on efforts to improve identified management functions.
- Provide replacement vouchers.
- Provide education and training opportunities for participating and potential owners.
- Collaborate with local government inspection programs on housing standards.

**3. MMHA Goal: Expand landlord footprint into areas of opportunity to increase affordable housing choices.**

**Objectives:**

- Conduct outreach efforts to potential voucher landlords.
- Conduct outreach efforts to enhance program image.
- Monitor voucher payment standards and revise as needed to accurately reflect the market.

**4. MMHA Goal: Promote self-sufficiency for all HCV program participants.**

**Objectives:**

- Increase the number and percentage of employed participants.
- Identify supportive services and link services to the other Social Services organization to improve recipients' employability and stability.
- Promote or attract supportive services to increase independence for the elderly and families with disabilities.

**5. MMHA Goal:** Ensure equal opportunity and affirmatively further fair housing.

**Objectives:**

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

**6. MMHA also has the following goals for the program:**

- To work with local neighborhood groups, law enforcement agencies, and community councils to be good neighbors in their communities.
- To create positive public awareness and expand the level of family, owner, and community support in accomplishing MMHA's mission.
- To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
- To utilize all available methods to ensure accurate tenant and subsidy payments.
- To administer an efficient, high-performing program through continuous improvement of MMHA's support systems and commitment to our employees and their development.
- To provide quality affordable housing for very low-income families while maintaining their rent payments at an affordable level.
- To ensure that all units meet Housing Quality Standards/NSPIRE standards and families pay fair and reasonable rents.
- To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience greater freedom of housing choice.
- To promote a housing program which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- To promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- To attract quality owners/landlords to participate in the HCV program.
- To provide the highest level of customer service to all owners/landlords on the HCV program.
- To promote policies and procedures that benefit owners/landlords, participants, and the community overall that will demonstrate an effective HCV program that provides neighborhood stability, fair profit sharing and reinvestments for owners/landlords while providing quality housing for participants.

**C. PURPOSE OF THE PLAN [24 CFR 982.54]**

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

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

Applicable regulations include:

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

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

The Administrative Fee Reserve is an account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. All expenditures from the administrative fee reserve will be approved by the MMHA Board of Commissioners.

**E. RULES AND REGULATIONS [24 CFR 982.52]**

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

**F. TERMINOLOGY**

- The Miami Metropolitan Housing Authority is referred to as "MMHA," "PHA," or "Housing Authority" throughout this document.
- "**Tenant**" is used to refer to participants in terms of their relation to owners. "Landlord" and "owner" are used interchangeably.
- "**Noncitizens Rule**" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants. The Housing Choice Voucher Programs are also known as the Housing Choice Voucher Program, HCVP, and Section 8.
- "**Failure to Provide**" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" Chapter. See *Glossary for other terminology*



**CHAPTER 2**  
**AFFIRMATIVELY FURTHERING FAIR HOUSING [24CFR §108]**

**Philosophy**

MMHA will implement policies and procedures to recognize the importance of local decision-making to help guide public sector housing, community development and investment decisions to fulfill their obligation to affirmatively further fair housing.

**Policy**

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) requires HUD to administer its programs in a way that affirmatively furthers fair housing. The laws that establish the Community Development Block Grant (CDBG) program, the Comprehensive Housing Affordability Strategy (CHAS), and the Public Housing Authority Plan (PHA Plan) each require jurisdictions to certify in writing that they are affirmatively furthering fair housing. MMHA is committed to working with local governments, both the state and federal governments and Miami County Community stakeholders to affirmatively further fair housing.

MMHA will focus on improving integrated living patterns and overcoming historic patterns of segregation; reducing racial and ethnic concentrations of poverty; reducing disparities on the basis of race, color, sex, religion, creed, national or ethnic origin, age, to actual or perceived sexual orientation, gender identity, familial or marital status, handicap or disability in access to community assets such as education, transit access, and employment, as well as exposure to environmental health hazards and other stressors that harm a person's quality of life; and responding to disproportionate housing needs by protected class.

MMHA will work with local government and organizations on an analysis to identify and address impediments to fair housing choice within its jurisdiction; (2) take actions within its control to overcome the effects of any impediments identified through that analysis; and (3) maintain records reflecting the analysis and actions in this regard.

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

It is the policy of the Housing Authority to comply fully with all federal, state, and local nondiscrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

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

To further its commitment to full compliance with applicable civil rights laws, MMHA will provide federal/state/local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable fair housing information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request at the HCV reception desk. MMHA will make available the toll free number for Fair Housing 1-800-896-7743 and the Local Fair Housing contact number 937-440-8116 and the Ohio Information Relay Service at 711 to facilitate filing fair housing complaints.

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

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

The MMHA offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by Ohio Relay by dialing 711.

## **B. TRANSLATION OF FOREIGN LANGUAGES**

For persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand. For purposes of Title VI and with the limited English proficiency (LEP) Guidance, persons may be entitled to language assistance with respect to a particular service, benefit, or encounter. For persons with limited English proficiency (LEP) the following will be considered:

1. The Housing Authority, with sufficient advanced notice, will make arrangements to assist non-English speaking families and translate documents into other languages.
2. In determining whether it is feasible to provide translation of documents written in English into other languages, MMHA will consider the number of applicants and participants in the jurisdiction who do not speak English and speak the other language.

We will provide referrals to fair housing agencies to families needing this service.

## **C. MANAGEMENT ASSESSMENT OBJECTIVES**

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

- Selection from the Wait List
- Reasonable Rent
- Determination of Adjusted Income Utility Allowance Schedule
- HQS/NSPIRE Quality Control Inspections HQS/NSPIRE Enforcement
- Expanding Housing Opportunities Payment Standards
- Annual Reexaminations
- Correct Tenant Rent Calculations Pre-Contract HQS/NSPIRE Inspections Annual HQS/NSPIRE Inspections
- Lease-Up

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

- Selection from the Wait List
- Rent Reasonableness
- Determination of Adjusted Income HQS/NSPIRE Enforcement
- HQS/NSPIRE Enforcement
- HQS/NSPIRE Quality Control

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

## **D. RECORDS FOR MONITORING MMHA'S PERFORMANCE**

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

## **E. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]**

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

MMHA's policy regarding release of information is in accordance with federal, state and local laws which may restrict the release of family information.

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

**F. FAMILY OUTREACH**

MMHA will publicize and disseminate information to make known the availability of housing assistance and related services for families.

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

**G. OWNER OUTREACH AND EXPANDING HOUSING OPPORTUNITY [24 CFR 982.54(d)(5)]**

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

MMHA encourages owners of quality affordable housing units to lease to Housing Choice Voucher program and encourage participation by owners outside of poverty or minority concentration. MMHA may send flyers advertising the HCV program and include this on MMHA website at [www.miamimha.org](http://www.miamimha.org) and MMHA Facebook page (Miami Metropolitan Housing Authority/CAC). MMHA also advertises in the Human Services Directory that is maintained by CAC, our sister affiliate at our agency. This book is distributed to area social service agencies, schools, Chamber of Commerce, Churches, all cities in Miami County officials, Commissioners, Police/Fire/EMT, all county libraries and more as a referral service every two years and is also found online at [www.miamicac.org](http://www.miamicac.org).

MMHA also maintains a “Referral List” for all current holders of a new or moving voucher. This is distributed at each briefing in the briefing packet. This is a list of specific units that property owners want distributed to current voucher holders and is updated as property owners call in. It also lists property owner names and phone numbers that have many units available all year long. The voucher holders may receive an updated listing, if requested, as long as the voucher is not expired.

MMHA also participates in other social service agencies activities such as “Caseworker Boot Camp”. This is a presentation of each agency on what they provide and includes MMHA HCV Program and Public Housing PowerPoint presentations. It allows us to enlighten other agencies on what we have to offer and they do the same. This usually takes place three times per year.

Current poverty rates as of 2021 are as follows:

- Covington – Poverty Rate 13.3%
- Huber Heights – Poverty Rate 7.9%
- Piqua – Poverty Rate 11.1%
- Tipp City – Poverty Rate 6.5%
- Troy – Poverty Rate 8.8%
- Union – Poverty Rate 35.4%
- West Milton – Poverty Rate 10.2%

In Miami County, Union is considered a high area of poverty. MMHA will market to Tipp City, Huber Heights, Troy, West Milton, Piqua, and Covington for high opportunity areas.

MMHA may recruit and encourage participation of property owners. MMHA may periodically evaluate the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families.

MMHA has also implemented a RFTA (Request for Tenancy Approval) Tracking form. This allows us to track each RFTA and if they are leasing or the reason why they are not leasing. This will assist in determining future target areas, payment standard insight, rent reasonableness issues or advertising focus areas.

MMHA may periodically:

- Request the HUD Field Office to furnish a list of HUD-held properties available for rent;
- Explain the program including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, owners, and other groups that have dealings with low-income families or are interested in housing such families. We will provide referrals to fair housing agencies to families needing this service.

## **H. APPLYING FOR ADMISSION**

Outreach efforts will include notification of all media and agencies listed in MMHA's Administrative Plan regarding public notices as per HUD Guidelines.

All persons who wish to apply for any of MMHA's programs must submit an application. Applications will be made available in an accessible format upon request from a person with a disability. Applicants will then be pulled from the wait list, subjected to third-party verification of all relevant information, and invited to a briefing if deemed eligible. Upon request, MMHA will provide information to an applicant on how to obtain a reasonable accommodation. If requested by the applicant, the information will be mailed in an accessible format.

## **I. REASONABLE ACCOMMODATIONS [24 CFR 100.204, CFR 248.3]**

MMHA must ensure that persons with disabilities have full access to MMHA's programs and services.

MMHA's reasonable accommodation policy is developed to provide all otherwise qualified applicants, residents, employees and other participants of MMHA programs or operations with equal access to all opportunities, programs and services offered by MMHA.

Such access shall not be compromised by an individual's disability, unless in doing so, the nature of MMHA's programs or services would be fundamentally changed or result in undue hardship to MMHA or pose a direct threat to the health or safety of the individual or others.

## **REASONABLE ACCOMMODATION POLICY**

MMHA will provide reasonable accommodation in its housing programs and services for applicants, participants, or residents with disabilities. A reasonable accommodation is a change in 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. A person with a disability may request a reasonable accommodation at any time. The individual requesting the reasonable accommodation, of the MMHA staff member on behalf of the individual, or any person identified by the individual is encouraged to submit all requests in writing. The decision to approve or deny request for reasonable accommodation is made on a case-by-case basis and takes into consideration the disability and the needs of the individual. Reasonable accommodation methods or actions that may be appropriate for a particular program and individual may be found to be inappropriate for another program or individual.

## **REQUESTS FOR REASONABLE ACCOMMODATIONS**

MMHA will develop and implement procedures through which individuals may request a reasonable accommodation. MMHA will make available to all persons applying for residency at MMHA, or current residents the reasonable accommodation forms.

MMHA will encourage that requests be submitted in writing using a reasonable accommodation request form. However, it is *not mandatory* that requests for accommodations be made in writing. MMHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. MMHA shall consider the need for accommodation by an applicant or resident that orally indicates that an exception, change or adjustment to a rule, policy, practice or service is needed due to a disability. If a resident requests a reasonable accommodation and does not wish to put the request in writing, the Occupancy or Intake Specialist (or other MMHA staff) should reduce the request to writing and forward to the Department Supervisor.

The family must explain what type of accommodation is needed to provide the person with the disability full access to MMHA's programs and services. If the need for the accommodation is not readily apparent or known, the family must explain the relationship between the requested accommodation and the disability.

The Occupancy Specialist will obtain any necessary third-party verification from a professional competent to render the opinion and knowledgeable about the individual's situation. The individual may be identified by the family as an individual competent to make the determination and may include 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 and provide verification of a disability. MMHA may not inquire about the nature or extent of any disability.

Requests for accommodations must be assessed on a case-by-case basis. After a request for an accommodation is presented, MMHA will respond, in writing, within ten (10) business days from receipt of a completed request. Upon receipt of the request for accommodation, whether oral or in writing, MMHA shall,

within ten (10) business days of the initial receipt, respond in writing as to whether or not the request for accommodation has been approved

If MMHA 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 the MMHA's decision through an informal hearing (if applicable) or the grievance process.

If MMHA 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 the MMHA's operations), MMHA 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

A participant with a disability must first request a specific change to a policy or practice as an accommodation of their disability before MMHA will treat a person differently than anyone else. MMHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the Housing Choice Voucher program and related services. The ability to request an accommodation will be referenced on the application and on MMHA application update forms.

**To be eligible for a reasonable accommodation:**

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

- A physical, mental, or emotional impairment that substantially limits one or more major life activities of an individual;
- A record of such impairment; or being regarded as having such impairment. Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with CFR 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, MMHA will require that a professional third party competent to make the assessment provide written verification that the person needs the specific accommodation due to their disability and that the change is needed for them to have equal access to the housing program. If MMHA finds that the requested accommodation fundamentally alters the nature of the PHA's operations, and/or creates an undue administrative or financial burden, MMHA will deny the request and/or present an alternate accommodation that will still meet the need of the person. An undue administrative burden is one that requires a fundamental alteration of the essential functions of MMHA (i.e., waiving a family obligation). An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on MMHA.

**Verification of Disability**

MMHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and the Americans with Disabilities Act (also referred to as "ADA"). If the person's disability is obvious or already known, and if the need for the requested reasonable accommodation is readily apparent MMHA will not request additional verification.

MMHA will request verification of the need for the requested accommodation every recertification year and all biennial inspections. The verification process does not require that the disability be verified, only that the accommodation is still required and is a nexus to the disability.

**CHAPTER 3 ELIGIBILITY FOR ADMISSION**  
**24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]**

**PHILOSOPHY**

MMHA will strive for objectivity and consistency in applying both HUD's and MMHA's screening criteria to evaluate the eligibility of families who apply for housing assistance.

**POLICY**

MMHA staff will objectively review all information provided by the applicant family. This review will be conducted in a careful manner in accordance with MMHA and HUD's admission eligibility criteria. Families will be provided an opportunity to explain their circumstances, to furnish additional information, and to receive an explanation regarding how a decision was made by MMHA pertaining to their admission eligibility.

**A. ELIGIBILITY FACTORS [982.201(b)]**

MMHA accepts applications only from families whose head or spouse/co-head is at least 18 years of age or a person who has been designated as an emancipated minor through court order. To be eligible for participation, an applicant must meet HUD's admission criteria, as well as any permissible additional criteria established by MMHA.

**Family-** Includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity or marital status: 24 CFR §§ 5.403

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person.
2. 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 USC 674(5)(H)), and is homeless or is at risk of becoming homeless at age 18 or older; or
3. A group of persons residing together, and such group includes but is not limited to:
  - An elderly family
  - A near elderly family
  - A disabled family
  - A displaced family
  - The remaining member of a tenant family

In addition, for categorizing family as defined above, the terms disabled family, elderly family and near-elderly family (per 24 CFR 5.403) are:

- *Disabled family* means a family whose head (including co-head); spouse or sole member is a person with a disability.
- *Elderly family* means a family whose head (including co-head); spouse or sole member is a person who is at least 62 years of age.
- *Near elderly family* means a family whose head (including co-head), spouse or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age
- An applicant must furnish Social Security Numbers for all family members and proof of citizenship or eligible immigrant status and verification where required. At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before MMHA may provide any financial assistance.

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

The family's initial eligibility for placement on the wait list will be made in accordance with these eligibility factors. Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the wait list for final eligibility processing for issuance of a voucher.

## **B. FAMILY COMPOSITION [24 CFR 5.403]**

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

A disabled family is a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

An elderly family is a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

### **Head of Household**

The head of household is the adult member of the household, designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a contract under state/local law.

Emancipated minors who qualify under state law can be recognized as head of household.

### **Spouse of Head**

Spouse means the husband or wife of the head of household.

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

### **Co-Head**

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

### **Foster Adult**

A member of the household (but not the family) 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 judgement decree, or other order of any court or competent jurisdiction.

### **Foster Child**

A member of the household (but not the family) 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 welfare agency) or by judgement, decree or other order of any court of competent jurisdiction.

### **Live-In Aides**

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

- Is determined by MMHA to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

Occasional, intermittent, multiple or rotating care givers do not meet the definition of Live-In Aide, therefore, MMHA will not grant an additional bedroom for rotating caregivers.

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

- Income of the Live-In Aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-In Aides are not subject to Noncitizen Rule requirements.
- Live-In Aides may not be considered as a remaining member of the tenant family.

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

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

MMHA will approve a Live-In Aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a Live-In Aide for reasonable accommodation will

be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 2 of this Administrative Plan. The continued need for a Live-In Aide must be verified at every annual recertification.

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

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person does not meet MMHA's program eligibility requirements;
- The person commits drug-related criminal activity, violent criminal activity, sexual offense or any criminal activity deemed unsuitable;
- The person was evicted or terminated from a federally assisted housing program in the past 36 months; or
- The person currently owes rent or other amounts to MMHA or another assisted housing provider under the 1937 Act.

#### **Split Households Prior to Voucher Issuance**

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

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

#### **Joint Custody of Children**

Generally, whoever has the children or has the children the longest percentage of the time is the "custodial parent." (IRS) On a case by case basis we will consider these situations based on the divorce decrees, informal agreements, and application since we must "anticipate" who will reside in the household and only if it is truly "shared parenting"- i.e. 50% of the time.

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

To be eligible for assistance, an applicant's annual income at the time of admission must not exceed 50% of median area incomes except these that are consistent with HUD regulations.

To determine if the family is income-eligible, MMHA compares the annual income of the family to the applicable income limit for the family's size. Families whose annual income exceeds the income limit will be denied admission.

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

##### **Applicants**

MMHA will deny eligibility to an applicant family if any required member of the household fails to disclose their Social Security Number and/or provide the required documentation of same.

If an applicant family is otherwise eligible to participate in the HCV program, the family may maintain their position on the wait list for a period of 90 calendar days in order to provide the missing Social Security Number and documentation for all members of the household. If there are issues beyond the families' control that prevent the Social Security Number from being obtained, MMHA may grant the family a one-time 90-day extension to comply with the Social Security Number documentation requirement.

However, if the applicant family consists of a child under six (6) years of age, who was added to the household within a period of six (6) months prior to the date of voucher issuance, failure to disclose or provide the minors social security number at the time of the briefing will not in and of itself preclude the applicant family from being eligible from participation. The missing social security number (s) for the affected minor household members must be submitted to MMHA's HCV department. If the applicant family fails to produce the requested documentation within the permissible timeframes, MMHA will deny or terminate Housing Choice Voucher assistance to the applicant family.



## **Participants**

Individuals exempt from Social Security disclosure and verification procedures are:

- Individuals who do not contend to have eligible immigration status.
- Tenants age 62+ as of 1/31/10.
- Tenants who have previously disclosed a valid SSN.

For participant households adding a new household member under the age of six with no assigned SSN, the new household member will be included as a household member, under a PIC generated alternate ID number, for a period not to exceed ninety (90) calendar days... During this time period, the family must disclose the missing social security number and required documentation to MMHA. MMHA may extend the submission deadline for an additional ninety (90) calendar days if unforeseen circumstances outside of the family's control will prevent timely disclosure and submission of required documentation.

At the expiration of the provided time period, if any required family member has failed to comply with the Social Security Number disclosure and documentation requirements, MMHA will terminate the participant's housing assistance.

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

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

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

For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

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

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

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

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

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

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

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

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

- Families that own Net Family Assets worth more than \$100,000.
- Families that own a home they could live in.
- The family must not have violated any family obligation during a previous participation in the Housing Choice Voucher Program for three years prior to application to the wait list. MMHA may make an

exception, if the family member who violated the family obligation is not a current member of the household on the application.

- The family must be in good standing regarding any current repayment agreement made with MMHA or another PHA for a previous debt owed to any assisted housing provider as a result of prior participation in any federal housing program, before MMHA will allow participation in its Housing Choice Voucher Program.
- If any member of an applicant family has a bad debt or previous balance due to MMHA or any other federally assisted housing program, they will be ineligible to apply. However, they will be eligible for an informal hearing.
- MMHA will check the criminal history for all adults in the household to determine whether any member of the family has engaged in any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.
- MMHA will evaluate the applicant's record of previous tenancy on the Housing Choice Voucher Program and other MMHA housing programs. If the record was unsatisfactory, assistance may be denied.
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, MMHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.

#### **G. TENANT SCREENING [24 CFR 982.307]**

MMHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter. MMHA will screen a family for program eligibility. MMHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The property owner/landlord is responsible for screening and selecting the family to occupy the owner's unit. Before MMHA approval of the tenancy, MMHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner is responsible for screening families for rental suitability based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

- Previous landlord reference checks;
- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others;
- Compliance with other essential conditions of tenancy.

MMHA will give the owner:

- The family's current and prior address as shown in MMHA's records; and
- The owner's contact information, if known, for the family's current and prior address.

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

#### **H. CONTINUED ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Because HUD periodically issues changes in rules and regulations and because family circumstances may have changed, MMHA will make a final determination of eligibility and notify the family in writing after the verification process is completed. The household is not eligible for voucher issuance until this final determination has been made.

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

**I. INELIGIBLE FAMILIES [24 CFR 5.612]**

**College Students**

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

- Under 24 years old;
- Not a U.S. veteran;
- Unmarried and does not have a dependent child, unless:
- The student is eligible and the student's parents (individual or jointly) are income eligible for the program; or
- The student can demonstrate absence or independence from their parents.

Assistance may be provided where the head of household is a college student and who meets one or more of the following criteria:

- At least 24 years old by December 31 of the award year for which aid is sought;
- An orphan or ward of court through age 18;
- A veteran of the U.S. Armed Forces;
- Married;
- Has a legal dependent(s) other than a spouse (i.e., dependent children or an elderly dependent parent);
- Unclaimed as a dependent on another person's tax return.

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

**CHAPTER 4**  
**ESTABLISHING PREFERENCES AND MAINTAINING THE WAIT LIST**  
**[24 CFR Part 5, Subpart D; 982.54(d)(1), 982.204, 982.205, 982.206]**

**PHILOSOPHY**

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

**A. WAIT LIST POLICY [24 CFR 982.204]**

MMHA uses one wait list for admission to its Housing Choice Voucher Tenant-Based Assistance Program.

Applicants will be selected from the MMHA HCV wait list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan. Applicants are notified at the time of application that they are required to report any address or family size change in writing to MMHA.

MMHA will maintain information that permits proper selection from the wait list. The wait list contains the following information for each applicant listed:

- Applicant name(s);
- Family unit size (number of bedrooms per MMHA subsidy standards).
- Qualification for any local preference;
- Racial or ethnic designation of the head of household; Annual (gross) family income; and
- Number of persons in family.
- Date and time of application.
- MMHA currently has an open waiting list. If the waiting list is ever closed, it must be closed according to HUD guidelines. MMHA will advertise through public notice in the local media outlets and shall give ample time to accommodate a person with disabilities.

**B. LOCAL PREFERENCES [24 CFR 982.207]**

MMHA will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the wait list. Applicants must claim eligible preference(s) at the time of application to the wait list.

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

- Veteran preference is the only local preference and is only used in the event of a tie if two individuals have been placed on the waitlist at the same date and time.

**C. INCOME TARGETING**

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

Higher Income families on the waiting list may be skipped in order to ensure that 75% of new admissions are ELI (30% median income).

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

Selection from the waiting list shall be on a first come first served basis according to date and time of application and in accordance with their preference status.

**E. REMOVAL FROM WAIT LIST AND PURGING [24 CFR 982.204(c)]**

The wait list will be purged if the waiting list reaches a length of 24 months estimated time of selection from the time of application. This will be done by by mailing to applicants, at the address provided by the applicant to the HCV Program, a notice requiring the applicant to respond and verify current information and their continued interest in the HCV program. The applicant is responsible for ensuring that MMHA's HCV Program has their most current mailing address on file. Families must submit address changes, in writing, to ensure that they receive notices from MMHA. Failure to respond by the deadline will result in the applicant's name being removed from the wait list. Upon request from a person with a disability, additional time may be granted as a reasonable accommodation to respond to an established deadline. If an applicant is removed from the wait list for failure to respond or returned mail, the applicant will not be entitled to reinstatement unless the HCV Supervisor or their designee determines there were circumstances beyond the person's control to respond timely. If a letter is returned by the Post Office, the applicant will be removed from the wait list without further notice, and the returned envelope and letter will be maintained in the applicant's file.

**CHAPTER 5**  
**APPLYING FOR ADMISSION AND BRIEFINGS [24 CFR 982.204]**

**Policy**

**A.** Upon pulling applicants from the waiting list, each will be sent a Selected Call letter. This will instruct the applicant to call to schedule an appointment (referred to as Selected Appointment) to determine their further eligibility. Failure to call to schedule the appointment within the designated time period will result in termination and a one-year penalty is imposed. Their current address is verified over the phone. If the address has changed, they will be given until the end of the designated time period to provide the address change in writing. We will then send to each caller a Selected Appointment Letter which will include the requested items that the applicant must bring to the appointment.

The verification process includes verifying family composition, income, allowances and deductions, assets, full-time student status, eligibility, and rent calculation factors, and other pertinent information as needed. Verification will be obtained as per the 'Verification Hierarchy' (Also see Chapter 6) as established by HUD. Once all verifications are completed, selected applicants will be scheduled for a briefing.

The briefing is generally a group meeting that describes the Housing Choice Voucher program, how to find a unit, how to get your subsidy started, and various other informational brochures, maps, and forms (See briefing packet & checklist) in **Addendum XXX**. The voucher is also issued at the briefing and has a 60-day expiration. Extensions must be requested before the voucher expires and will be granted at the housing authority's discretion, but cannot exceed 120 days total, per HUD guidelines. When a Request for Tenancy approval is turned in to us to set up an inspection the voucher will be "tolled" (the time stands still until the inspection is scheduled). Example: If it takes two weeks to schedule the inspection – two weeks is added to the expiration date of the voucher.

## CHAPTER 6 VERIFICATION PROCEDURES

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

### **PHILOSOPHY**

HUD regulations require the factors of eligibility and Total Tenant Payment/Family Share (TTP) be verified by MMHA. MMHA's verification requirements are designed to maintain program integrity.

### **POLICY**

MMHA will obtain proper authorization from the family before requesting information from independent sources.

MMHA staff will use HUD's Enterprise Income Verification system (EIV) to streamline the verification of a family's income after admission. This will be the first method of verifying and validating tenant reported information.

Applicants and program participants must provide true and complete information to MMHA whenever information is requested.

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

This chapter explains MMHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition.

#### **A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516] PIH Notice 2017-12**

MMHA will review the HUD EIV Income and Former Tenant Search reports prior to admission of each family. PHAs are required to review the Income and Income Verification Tool (IVT) reports during mandatory and interim reexaminations of family income and/or composition to reduce tenant under-reporting of income and improper subsidy payments. EIV is classified as an Upfront Income Verification (UIV) technique (or automated written third-party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique, in many instances, will reduce the need to mail or fax third party verification request forms to an income source. EIV also provides various reports to assist PHAs with the following:

- a. Identifying tenants whose reported personal identifiers do not match the SSA database
  - b. Identifying tenants who need to disclose an SSN;
  - c. Identifying tenants whose reported personal identifiers do not match the SSA database;
  - d. Identifying tenants who may not have reported complete and accurate income information;
  - e. Identifying tenants who have started a new job;
  - f. Identifying tenants who may be receiving duplicate rental assistance;
  - g. Identifying tenants who are deceased and possibly continuing to receive rental assistance; and
  - h. Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.
1. All PHA staff who have a need to access the EIV system, are required to complete and submit the EIV Access Authorization Form & Rules of Behavior and User Agreement to their designated EIV Coordinator who will submit completed forms to the local HUD office. The form is available online at:

[https://www.hud.gov/sites/documents/DOC\\_10866.PDF](https://www.hud.gov/sites/documents/DOC_10866.PDF)

The user's access must be approved by the PHA Executive Director or designee for the local HUD office to process EIV access requests. Individuals who will not directly access the EIV system but will have access to the EIV data in printed or electronic form also are required to complete the EIV Access Authorization Form & Rules of Behavior and User Agreement and maintain it on file (do not submit the form to the local HUD office).

## 2. Verification Hierarchy

MMHA will begin with the highest level of verification techniques.

All verifications, regardless of technique, require the PHA to review the IVT information at the time of reexamination and for multiple subsidy payments. PHAs are required to review the EIV Former Tenant and Existing Tenant Reports for any SSA matches involving another PHA or a Multi-family entity and follow-up on any issues identified. The PHA is required to maintain the report and documentation of any follow-up in the tenant file. If the tenant is a new admission to the PHA, and a match is identified at a Multi-family property, the PHA must report the program admission date to the Multi-family property and document the notification in the tenant file.

MMHA will also obtain an Income Report for each household and maintain the EIV Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all interim and mandatory reexaminations of family income and composition. If the Income Report does not contain any employment and income information for the family, the MMHA will attempt the next lower level verification technique, as noted in the below chart.

**Exhibit 1: Verification Hierarchy and Techniques**

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> , using HUD's Enterprise Income Verification (EIV) system and the <b>Income Validation Tool (IVT)</b> (not available for income verifications of new applicants)	<b>Highest</b> (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest</b> (Optional)
4	<b>Written Third Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.)
3	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification)

**Note:** This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants. Verification Hierarchy and Techniques illustrates six levels of verification starting with 6 as the highest category of Upfront Income Verification using HUD's EIV system, then 5 Upfront Income Verification (UIV) using non-HUD system, 4 Written Third-Party Verification, 3 Written Third Party Verification Form, 2 Oral Third-Party Verification and 1 Tenant Declaration.

### Verification Technique Definitions

#### Third-Party Verification Techniques

**Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

**Written Third Party Verification (Level 4):** An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or PHA request date. Such documentation may



be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. It is the Department's position that such tenant-provided documents are written third party verification since these documents originated from a third-party source. The PHA may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third-party verification form or the best available information.

**Note:** Documents older than 60 days (from the PHA interview/determination or request date) are acceptable for confirming effective dates of income. MMHA will accept electronic documents and photocopies when appropriate.

**Written Third Party Verification Form (Level 3):** This is also known as traditional third party verification. A standardized form to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email.

It is the Department's position that the administrative burden and risk associated with use of the traditional third-party verification form may be reduced by PHAs relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, Federal, State and/or local agencies, banks, etc.).

The Department recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third-party source to provide false information; or the tenant intercepts the form and provides false information.

The Department requires PHAs to rely on documents that originate from a third-party source's computerized system and/or database, as this process reduces the likelihood of incorrect or falsified information being provided on the third-party verification request form. The use of acceptable tenant-provided documents, which originate from a third-party source, will improve the integrity of information used to determine a family's income and rent and ultimately reduce improper subsidy payments. This verification process also will streamline the income verification process.

**Oral Third-Party Verification (Level 2):** Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHA's faxed, mailed, or e-mailed request for information in a reasonable time frame, e.g., ten (10) business days.

#### **Non-Third-Party Verification Technique**

**Tenant Declaration (Level 1):** The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other verification techniques. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third-party verification was not available.

#### **Exceptions to Third Party Verification Requirements**

HUD is aware that in some situations, third party verification is not available for a variety of reasons. Oftentimes, the PHA may have made numerous attempts to obtain the required verifications with no success, or it may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal. In these cases, the PHA is **required to document in the family file the reason(s) why third-party verification was not available.**

The exception to third party verification can be found at 24 CFR 960.259(c)(1) and §982.516(a)(2), which state in part, "...The PHA must obtain and document in the family file third party verification of the following factors or **must document in the file why third-party verification was not available.**"

**3. Third-party verification requirements.** In accordance with 24 CFR 982.516(a) for the HCV programs, the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income.

**4. How to comply with and reduce administrative burden of third-party verification requirements of family annual income.** PHAs can comply with and reduce administrative burden of third-party verification requirements for employment, wage, unemployment compensation and Social Security benefits, and any other information that is verifiable using EIV by:

- a. Reviewing the EIV Income and IVT Reports to confirm/validate tenant-reported income;
- b. Printing and maintaining the EIV Income and IVT Reports in the tenant file;
- c. Obtaining current acceptable tenant-provided documentation to supplement the EIV information; and
- d. Using current tenant-provided documentation and/or third-party verification to calculate annual income.

**Note:** Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, PHAs do not need to obtain or request a benefit verification letter from the tenant. See PIH notice 2012-10 for guidance on verifying Social Security benefit income through the EIV system.

The PHA also may reduce the administrative burden of obtaining third party verification by relying on acceptable documents that are generated by a third-party but provided by the tenant. Many documents in the possession of the tenant are derived from third party sources (e.g., employers, federal, state and/or local agencies, banks, etc.).

**5. When the PHA is required to request written third-party verification.** The PHA must request written third-party verification under the following circumstances:

- a. When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR 5.236(b)); and
- b. When the PHA requires additional information that is not available in EIV and/or the tenant is unable to provide the PHA with current acceptable tenant-provided documentation.

Examples of additional information include, but are not limited to:

- i. Effective dates of income (i.e., employment, unemployment compensation, or social security benefits)
- ii. For new employment: pay rate, number of hours worked per week, pay frequency, etc.
- iii. Confirmation of changes in circumstances (i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.)

## **B. RELEASE OF INFORMATION [24 CFR 5.230]**

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form. In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, *Authorization for the Release of Information /Privacy Act Notice*. Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance. It is a family obligation to supply any information required for admission into, or continued participation in, the Housing Choice Voucher Program and to sign all consent forms requested by MMHA or HUD.

### C. ITEMS TO BE VERIFIED [24 CFR 982.516]

- Earned income for all adult household members, 18 years of age or older.
- Unearned income for all household members (including minors).
- Full-time student status including high school students who are 18 years of age or older.
- Current assets including assets disposed of for less than fair market value within the past two years. (Net family assets in excess of \$5,000 must be verified by third party. Net family assets equal to or less than \$5,000 must be third party verified every three years. In the interim, program participants with net family asset equal to or less than \$5,000 are required to MMHA with a declaration of assets at each annual reexamination)
- Child care expense where it allows an adult family member to be employed, or to actively seek work, or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse/co-head is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an adult family member to be employed.
- Disability for determination of preferences, allowances, deductions or reasonable accommodation.
- U.S. citizenship/eligible immigrant status.
- Social security numbers for all family members.
- Familial/Marital status when needed for head or spouse definition.
- Other factors that affect the determination of adjusted income or income- based rent.

**Imputed Income:** Verification of Reason for Reduction in Welfare Benefits: MMHA will use written verification from the welfare agency stating that the family's benefits have been reduced for noncompliance with the Self-Sufficiency Program when assessing the family's request for rent reduction. Imputed welfare income is included in annual income when the family's benefits have been reduced due to:

- Welfare fraud
- Failure to comply with a welfare requirement to participate in economic self- sufficiency programs
- The Agency will request information regarding:
  - The amount and term of the specified welfare benefit reduction for the family.
  - The reason for the reduction.
  - Subsequent changes in the term or amount of the reduction.

The Agency will use the information provided by the welfare agency to determine the amount of imputed welfare income for the family. Imputed Welfare Income is the amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's annual income for purposes of determining rent. This reduction is based on information provided by the welfare agency and used during the term of welfare benefits reduction. The PHA may not include imputed welfare in annual income if the family was not an assisted resident at the time of the sanction. Imputed income is offset by the amount of additional income the family receives that starts after the sanction is imposed. When such additional income is greater than or equal to imputed welfare income, imputed welfare income is reduced to zero.

### D. HOTMA Income and Income Exclusions

Determining Income and Rent: HOTMA changes the definitions of Annual Income and Adjusted Income, although the formulas for Total Tenant Payment, Tenant Rent and Housing Assistance Payment remain the same. The definition of "excluded income" has been significantly revised.

A second big change in HOTMA is that we will not be using "anticipated income" anymore. We are to use last year's income for Annual Income, taking into account any interim changes since the last re-exam.

Finally, under HOTMA we are permitted to use other agency's determinations of Annual Income although the rules on 3<sup>rd</sup> party verification still apply. We are permitted to use incomes verified by:

- TANF
- Medicaid
- SNAP (food stamps)
- Earned Income Tax Credit

- Low Income Housing Credit
- WIC
- SSI
- Other programs administered by the Secretary.

A. Annual Income 24 CFR § 5.609(a)

Annual income includes, with respect to the family:

1. All amounts not specifically excluded in the list of excluded income below, 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 \$50,000 (which amount HUD will adjust in accordance with the Consumer Price Index) 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. Excluded Income 24 CFR § 5.609(b)

Annual Income does not include the following:

1. Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index) and no actual income from the net family assets can be determined. Actual income from assets will be included.
2. The following types of trust distributions:
  - a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets
    - 1) Distributions of the principal or corpus of the trust; and
    - 2) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
3. Earned income of children under the age of 18 years.
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 worker's 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.
9. Certain student financial assistance to students as provided below:
10. Excluded Student Financial assistance covers 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, 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

11. With respect to student financial assistance the following is excluded:

- a. Any assistance that section 479B of the Higher Education Act of 1965 requires to be excluded from a family's income,
- b. Plus, any of the following up to the total amount of Excluded Student Financial assistance as defined above received from:
  - 1) *The Federal government.*
  - 2) *A State, Tribal or local government.*
  - 3) *A private foundation registered as a nonprofit under 502(c)(3).*
  - 4) *A business entity (such as a 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.*

Student financial assistance that is included in Annual Income includes:

- 1) 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)
- 2) Gifts including gifts from family or friends
- 3) Any amount of scholarship or grant that, either by itself or in combination with assistance excluded in 9.a above, exceeds the excluded Student Financial Assistance defined in 9 above.

12. 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.

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

14. Additionally excluded are:

- a. Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
- b. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) to allow participation in a specific program.
- c. 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.
- d. Incremental earnings and/or benefits resulting to any family member from participation in qualifying state or local employment 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. 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 9 above.

15. Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

16. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent.

17. Adoption assistance payments in excess of the amount of the deduction for a dependent.

18. Deferred periodic payments of 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. But the periodic payments from these sources are income.
19. Payments related to aid and attendance under 38 USC 1521 to veterans in need of regular aid and attendance.
20. 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.
21. 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.
22. 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).
23. 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. 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 the United States Housing Act of 1937. (A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.)

The following is a list of benefits excluded by other Federal Statute:

- a. The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977; 7 USC 2017 (h)
- b. Payments to volunteers under the Domestic Volunteer Service Act of 1973; 42 USC 5044 (g), 5088

Examples of programs under this Act include but are not limited to:

- the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program.
  - National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs.
  - Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).
- c. Payments received under the Alaska Native Claims Settlement Act; 43 USC.1626 (a)
  - d. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes; 25 USC. 459e
  - e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; 42 USC 8624 (f)
  - f. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians; P. L. 94-540, 90 Stat 2503-04
  - g. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims 25 USC 1407-08, or from funds held in trust for an Indian Tribe by the Secretary of Interior; and 25 USC 117b, 1407

- h. Payments received from programs funded under Title V of the Older Americans Act of 1965: 42 USC 3056 (f)
    - Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.
  - i. Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation.
  - j. Payments received under Maine Indian Claims Settlement Act of 1980; P.L. 96-420,94 Stat. 1785
  - k. The value of any childcare 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 USC 9858q
  - l. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.
  - m. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990.
  - n. 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.
  - o. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.
  - p. Kinship Guardian assistance payments and other guardianship care payments.
  - q. Any amount received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced price lunches and food under WIC.
  - r. Payments, funds or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990.
  - s. Compensation received by or on behalf of a veteran for service connected disability, death, dependency or indemnity compensation as provided by the Indian Veterans Housing Opportunity Act of 2010.
  - t. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case Elouise Cobell et al v Ken Salazar.
  - u. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4)).
  - v. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
  - w. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).
25. Replacement housing “gap” payments that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another. Such 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.
26. 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:

- a. Payments from the US. 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.
  - b. Direct Federal or State payments intended for economic stimulus or recovery.
  - c. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
  - d. Amount directly received by the family as a result of Federal refundable tax credits and Federal tax received the time they are received.
  - e. Gifts for holidays, birthdays or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
  - f. Non-monetary, in-kind donations, such as food, clothing or toiletries received from a food bank or similar organization.
  - g. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
27. Civil rights settlements or judgments, including settlements of judgments for back pay.
28. Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirements 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.
29. Income earned on amounts placed in a family's Family Self Sufficiency Account.
30. Gross income a family member receives through self-employment or operation of a business except that the following shall be considered income to a family member:
- a. Net income from the operation of a business or profession. 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 IRS regs, and
  - b. Any withdrawal of cash or assets from the operation of a business or profession will be included in income except to the extent that the withdrawal is reimbursement of case or assets.

**B. Adjusted Income 24 CFR § 5.611**

Adjusted income means annual income as determined above of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

1. \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index, rounded to the next lowest multiple of \$25.
2. \$525 for any elderly family or disabled family, which amount will be adjusted annually in accordance with the Consumer Price Index, 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:
  - a. Unreimbursed health and medical care expenses of any elderly family or disabled family; and
  - b. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the members who is a person with a disability) to be employed. This deduction may not exceed the combined earned income received by adult family members who are able to work because of such attendant care or auxiliary apparatus; and
4. Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.



5. Financial hardship exemption for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses. Phased-in relief:
  - a. Eligibility for relief: To receive hardship relief the family must have received a deduction from annual income because the sum of
    - 1) unreimbursed expenses for health and medical care, plus
    - 2) unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work
    - 3) that exceeded 3 percent of annual income
  - b. Form of relief:
    - 1) Beginning with the first recertification after 1/1/2024, the family will receive a deduction totaling the sum of
      - a) unreimbursed expenses for health and medical care, plus
      - b) unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work
      - c) that exceed 5 percent of annual income.
    - 2) At the second annual recertification (12 months after the recertification in b.1) above), the family will receive a deduction totaling the sum of
      - a) unreimbursed expenses for health and medical care plus
      - b) unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work
      - c) that exceed 7.5 percent of annual income.
    - 3) At the third annual recertification (24 months after the recertification in b.1) above) the family must receive a deduction totaling the sum of
      - a) unreimbursed expenses for health and medical care, plus
      - b) unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work
      - c) that exceed 10 percent of annual income.- 6. Additional relief may be available financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing financial hardship.
  - a. Eligibility for relief: To receive hardship relief under this paragraph, a family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change of circumstances (as defined by the PHA) that would not otherwise trigger an interim reexamination.
  - b. Relief under this paragraph is available regardless of whether
    - 1) the family previously received deductions under paragraph 5.b above,
    - 2) is currently receiving relief under paragraph 5.b above, or
    - 3) previously received relief under paragraph 5.b above.
  - c. Form and duration of relief.
    - 1) The family will receive a deduction for the sum of
      - a) unreimbursed expenses for health and medical care, plus
      - b) unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work

- c) that exceed 5 percent of annual income.
- 2) 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 comes earlier. However, PHAs may, at their discretion extend the relief for one or more additional 90-day periods while the family's hardship continues.
- 3) This PHA's policy is to continue this relief until the circumstances that made the family eligible for the relief are no longer applicable.

**C. Net Family Assets** – 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. 24 CFR § 5.603

In determining net family assets PHAs or owners 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 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 an owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Excluded from the calculation of net family assets are:

- The value of necessary items of personal property
- The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which will be adjusted by HUD in accordance with the Consumer Price Index)
- The value any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements, employer retirement plans (pensions), and retirement plans for self-employed individuals.
- 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.
- 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.
- The value of any Coverdell education savings account under section 530 of the IRS code, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account under Section 629A of such Code, and the value of any "baby bond account created, authorized or funded by Federal, State or local government.
- Interests in Indian trust land
- Equity in a manufactured home where the family receives assistance under the Housing Choice Voucher program.
- Family Self Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after the receipt by the family.
- An irrevocable trust.

**D. New definitions.**

1. 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.
2. Dependent - A member of the family (which excludes foster children and foster adults), other than the family head or spouse, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student. 24 CFR § 5.603
3. 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, SSI, and governmental subsidies for certain benefits) or any cash or in-kind benefits. 24 CFR § 5.100

4. Family – Includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity or marital status: 24 CFR §§ 5.403

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 USC 674(5)(H), and is homeless or is at risk of becoming homeless at age 18 or older; or

A group of persons residing together, and such group includes but is not limited to:

A family with or without children (a child who is temporarily away from 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.

5. Foster Adult – A member of the household (but not the family) 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 judgement decree, or other order of any court of competent jurisdiction.
6. Foster Child – a member of the household (but not the family) 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.
7. Health and medical care expenses – 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.
8. Home you Could Live in – a home you have the right to sell, that is not owned jointly with a person who is not a member of the applicant/tenant/voucher holder family, that is not unsuitable for the disabilities of any family member, that is not in such substandard condition that it is uninhabitable, or that is not located in a place that is too distant to make commuting to work infeasible.
9. Independent contractor – An individual who qualifies as an independent contractor instead of an employee in accordance with the IRS 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.
10. Medical Expense Allowance - For purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense not compensated for or covered by insurance in excess of 10% of Annual Income. 24 CFR § 5.603
11. Minor – A member of the family, other than the head or spouse, who is under 18 years of age.
12. 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

13. Seasonal Worker – an individual who is hired into a short-term position 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.
14. Unearned income – means any annual income, as calculated under § 5.609 that is not earned income.

**Income Exclusions Table**  
**Annual Income Exclusions 24 CFR 5.609(b)**

Category	Exclusion	CFR	Description
Other	Federally Mandated Income Exclusions	24 CFR 5.609(b)(22)	Amounts that must be excluded by federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.
Assets	Imputed Income from Assets	24 CFR 5.609(b)(1)	Any imputed return on an asset when net family assets total \$50,000 (adjusted annually) or less and no actual income from the net family assets can be determined.
Non-recurring income	Non-recurring income	24 CFR 5.609(b)(24)	Income that will not be repeated in the coming year based on information provided by the family.
Self-employment	Gross Self-employment Income	24 CFR 5.609(b)(28)	Gross income received through self-employment or operation of a business
Dependents	Minors (children under the age of 18 years)	24 CFR 5.609(b)(3)	All earned income of all children under the age of 18, including foster children.
Dependents	Adoption assistance payments	24 CFR 5.609(b)(15)	Adoption assistance payments for a child in excess of the amount of the dependent deduction.
Students	Earned Income of Dependent Students	24 CFR 5.609(b)(14)	Earned income of dependent full-time students in excess of the amount of the dependent deduction.
Students	Title IV HEA Assistance	24 CFR 5.609(b)(9)(i)	Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.
Students	Other Student Financial Assistance	24 CFR 5.609(b)(9)(ii)	Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.
Students	Educational Savings Account	24 CFR 5.609(b)(10)	Income and distributions from any Coverdell educational savings account or any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.
Baby bonds	Baby bonds	24 CFR 5.609(b)(10)	Income earned by government contributions to, or distributions from, 'baby bond' accounts created, authorized or funded by federal, state or local government.

Category	Exclusion	CFR	Description
Foster children/adults	Payments for Foster Children/Adults	24 CFR 5.609(b)(4)	Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.
Foster children/adults	Income of foster children/adults	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.
Live-in Aide	Income of a Live-in Aide	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult.
People with Disabilities	ABLE accounts	24 CFR 5.609(b)(22)	Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.
People with Disabilities	State Payments to Allow Individuals with Disabilities to Live at Home	24 CFR 5.609(b)(19)	Payment made by an authorized by a state Medicaid managed care system or other state agency to a family to enable a family member to live in the family's assisted unit.
People with Disabilities	Plan to Attain Self-Sufficiency (PASS)	24 CFR 5.609(b)(12)(i)	Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).
People with Disabilities	Reimbursements for Health and Medical Care Expenses	24 CFR 5.609(b)(6)	Amounts for, or in reimbursement of, health and medical care expenses for any family member.
Trusts	Trust Distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor
Insurance	Insurance payments and settlements for personal or property loss	24 CFR 5.609(b)(5)	Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.
Retirement	Retirement plan	24 CFR 5.609(b)(26)	Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.
Military	Hostile fire special payment	24 CFR 5.609(b)(11)	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

Category	Exclusion	CFR	Description
Veterans	Veterans aid and attendance payments	24 CFR 5.609(b)(17)	Payments related to aid and attendance for veterans under 38 U.S.C. 1521.
Lawsuits	Lawsuit Settlements	24 CFR 5.609(b)(7)	Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled.
Lawsuits	Reparations for Persecution	24 CFR 5.609(b)(13)	Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.
Lawsuits	Tribal Claims Payments	24 CFR 5.609(b)(21)	Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.
Lawsuits	Lawsuits related to civil rights	24 CFR 5.609(b)(25)	Civil rights settlements or judgments, including settlements or judgments for back pay.
Reimbursements	Reimbursements from publicly assisted programs	24 CFR 5.609(b)(12)(ii)	Amounts received by a participant in other publicly assisted programs for or in reimbursement of expenses to allow program participation (e.g., special equipment, clothing, transportation, childcare, etc.).
Resident Services Stipend	Resident Services Stipend	24 CFR 5.609(b)(12)(iii)	Resident service stipends of \$200 or less per month for performing a part-time service for the PHA that enhances the quality of life in the development.
Employment Training Programs	Employment training programs	25 CFR 5.609(b)(12)(iv)	Incremental earnings and benefits from training programs HUD and qualifying employment-training programs and training of a family member as resident management staff.
Housing gap payments	Housing "gap" payments	24 CFR 5.609(b)(23)	Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.
Benefits	Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits	24 CFR 5.609(b)(16)	Deferred periodic amounts from: SSI, Supplemental Security Income and benefits or VA disability benefits that are received in a lump sum or prospective monthly amounts.
Property tax rebates	Property Tax Rebates	24 CFR 5.609(b)(18)	Refunds or rebates under state or local law for property taxes paid on the dwelling unit.
Loans	Loan Proceeds	24 CFR 5.609(b)(20)	The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).

## **E. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]**

### **Child Care Expenses**

Childcare voucher stubs.

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

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

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

### **Medical Expenses**

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

### **Health and Medical Care Expenses**

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.

All expense claims will be verified by one or more of the methods listed below:

- Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the past or anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will not be reimbursed by insurance or a government agency.
- Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
- Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

For attendant care:

- A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
- Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
- Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
- Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. MMHA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one time, nonrecurring expenses from the previous year.

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

**Disability Expense** [24 CFR 5.611(c)] In

All Cases:

- Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.
- Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

- Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.
- Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

- Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.
- In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

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

**Verification of Legal Identity**

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

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

- Certificate of birth or naturalization papers;
- Church issued baptismal certificate;
- Current, valid driver's license or state ID;
- U.S. military discharge (DD 214);
- U.S. passport; Voter's registration;

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

- Certificate of birth;
- Adoption papers;
- Custody agreement;

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

**Verification of Marital Status**

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer. Verification of a separation may be a copy of court-ordered maintenance or other records. Verification of marriage status is a marriage certificate.

**Familial Relationships**

The following verifications will always be required if applicable:

**Verification of Relationship**

- Official identification showing names;
- Birth certificates



### **Verification of Guardianship**

- Court-ordered assignment;
- Affidavit of parent;
- Verification from social services agency; or school records.

### **Verification of Permanent Absence of Family Member**

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

- Husband or wife institutes divorce action. Husband or wife institutes legal separation.
- Order of protection/restraining order currently active with the courts, obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, current driver's license, or current verifiable lease or rental agreement.
- Statements from other agencies such as social services or a written statement from the owner or manager that the adult family member is no longer living at that location.
- If the adult or child family member is incarcerated, a document from the court or correctional facility should be obtained stating how long they will be incarcerated. If the incarceration is due to criminal or drug related activity while a member of the household, assistance may be terminated.
- If no other proof can be provided, MMHA will accept a notarized self- certification from the head of household. If the head of household is the absent member, proof can be provided by the spouse or co-head.

### **Verification of Change in Family Composition**

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

### **Verification of Disability**

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

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

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

All adult applicants are required to sign a declaration of citizenship under penalty of perjury. MMHA will require citizens to provide documentation of citizenship.

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

- United States birth certificate
- United States passport
- Resident alien/registration card
- Social security card
- Other appropriate documentation as determined by MMHA.

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

form and provide their original immigration documents which are copied front and back and returned to the family. MMHA verifies the status through the INS SAVE system.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse/co-head. Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

#### **Failure to Provide**

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

#### **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. MMHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family. For family members added after other members have been verified, the Verification occurs at the interim recertification before the new member moves in.

#### **Extensions of Time to Provide Documents**

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

#### **Acceptable Documents of Eligible Immigration**

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

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

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

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

#### **Verification of Social Security Numbers [24 CFR 5.216]**

##### **Applicants**

MMHA will deny eligibility to an applicant if any member of the family that is required to disclose their Social Security Number does not disclose it or provide documentation of such Social Security Number. However, if the family is otherwise eligible to participate in the program, the family may maintain their position on the wait list for a period of 90 days in order to provide the missing Social Security Number for each member of the household. If there are issues beyond the family's control that prevent the Social Security Number from being obtained, MMHA may grant the family a one-time 90-day extension to comply with the Social Security Number documentation requirement.

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

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

### **Participants**

Individuals exempt from disclosure and verification procedures are:

- Individuals who do not claim to have eligible immigration status;
- Tenants age 62+ as of 1/31/10; and
- Tenants who have previously disclosed a valid SSN.

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

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

### **Acceptable Sources of Social Security Numbers**

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

- Earnings statements or payroll stubs; IRS Form 1099;
- Life insurance policies;
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records;
- or;
- Verification of benefits or social security number directly from Social Security Administration.

### **Verification of Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable medical professional and provided to MMHA on the required reasonable accommodation form which will be sent as a third party verification. Although MMHA may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom will be verified by MMHA during the annual inspection of the unit. If the extra bedroom is being used for its intended purpose and the individual remains at the residence where the accommodation was initially granted, reasonable accommodation will need to be re-verified every year. If the individual moves, then the accommodation will be reassessed in accordance with Reasonable Accommodation policy. If the extra bedroom is not being used for the intended purpose, MMHA must reduce the subsidy standard and corresponding payment standard at the family's next annual recertification. MMHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated.

### **G. VERIFICATION OF WAIT LIST PREFERENCES [24 CFR 982.207]**

A veteran preference is the only local preference and is only used in the event of a tie if two individuals have been placed on the waitlist at the same date and time.

**Chapter 7**  
**BRIEFING AND VOUCHER ISSUANCE**  
**[24 CFR 982.301, 982.302]**

**PHILOSOPHY**

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

**POLICY**

A full HUD-required briefing will be conducted for applicant families that have been pulled from wait list and determined to be eligible. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. They are also informed of the policies for how changes in the family composition will be handled.

**A. BRIEFING REQUIREMENTS [24 CFR 982.301]**

**Initial Applicant Briefing**

A full HUD-required briefing will be conducted for eligible applicant families who have reached the top of the wait list. The briefings may be conducted in groups. The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet is provided to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

MMHA will not issue a voucher to a family unless the head of household, co-head, spouse or adult family representative has attended a briefing. It is the family's responsibility to complete a required selected appointment to verify eligibility and gather required documentation. MMHA may conduct individual briefings for families with disabilities upon request.

**Initial Briefing Packet [24 CFR 982.301(b)]**

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

The family is provided with the following information and materials:

- The Housing Choice Voucher Program Tenant Handbook.
- The HUD brochure "A Good Place to Live," on how to select a unit that complies with HQS.
- The HUD brochure "Fair Housing: It's Your Right," and other information about fair housing laws and guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office.
- The HUD pamphlet on lead-based paint "Protect Your Family from Lead in Your Home," and information about where blood level testing is available.
- The HUD Tenancy Addendum for Housing Choice Voucher Program Tenant- Based Assistance.
- The HUD form "Housing Discrimination Complaint."
- Additional information includes information on: "Participant Responsibilities," "Denial/Termination," "Informal Review/Hearing," "Housing Quality Standards" and information concerning program fraud.

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

The information packet includes an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each neighboring housing agency for use by families who move under portability. It is MMHA policy that a tenant must receive HCV assistance in Miami County for one year before they are eligible to port out to another county, unless a reasonable accommodation is approved to port earlier.

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

- Information describing the Housing Choice Voucher Program, including the term of the voucher and MMHA's policy for requesting extensions or suspensions of the voucher (referred to as tolling).
- A description of the method used to calculate the housing assistance payment for a family, including how MMHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule; and how MMHA determines the rent for an assisted unit.
- The form the family must use to request approval of tenancy and a description of the procedure for requesting approval for tenancy.
- The MMHA Subsidy Standards including how the voucher size relates to the unit size selected and briefly explain how the tenant cannot pay more than forty percent of their income towards rent and utilities. If the family includes a person with disabilities, MMHA will ensure compliance with CFR 8.6 to ensure effective communication.

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

When funding is available, MMHA will issue vouchers to applicants whose eligibility has been determined. MMHA performs a monthly calculation of vouchers available and pending to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent MMHA can over-issue or under-issue (issue more or less vouchers than the budget allows to achieve lease-up).

The number of vouchers issued will ensure that MMHA stays as close as possible to 100% lease up or equivalent budget authority. MMHA may over-issue vouchers only to the extent necessary to meet leasing goals. If MMHA finds it is over-leased, it must adjust future issuances of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

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

After being deemed eligible through completion of the verification process, an applicant family will be issued a voucher. The voucher is a contractual agreement between MMHA and the family specifying the rights and responsibilities of each party. It does not constitute admission to the program. Admission into the HCV program occurs when the lease and contract become effective and is approved and signed by the MMHA Executive Director.

**Expirations**

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

If the voucher has expired, and has not been extended by MMHA or expires after an extension, the family may be denied assistance. The family will not be entitled to a review or hearing regarding the expiration of a voucher.

**Suspensions/Voucher Toll**

When an RFTA is received, MMHA will stop the clock (toll) the time of the voucher by the number of days required to process the RFTA and schedule the inspection. The clock for the term of the voucher will resume upon cancellation of the RFTA.

**Extensions**

MMHA will extend the voucher term up to a term reasonably required, if the family needs and requests an extension of the initial voucher term as a reasonable accommodation to make the housing choice voucher program accessible to a family member who is a person with a disability. Other extensions are permissible, at the discretion of MMHA. An informal review or hearing will not be provided for an expiration of a voucher term.

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

MMHA will not "split" a voucher or issue a second voucher to a family due to a split of the household. In those instances, when a family assisted under the Housing Choice Voucher Program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the HCV Director or designee shall consider the following factors to determine which of the families will continue to be assisted:

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

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, MMHA will terminate assistance on the basis of failure to provide information necessary for a recertification. If the family break-up results from an occurrence of domestic violence, dating violence, or sexual assault, or stalking as provided in 24 CFR part 5, subpart L, MMHA must ensure that the victim retains assistance.

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, MMHA is bound by the court's determination of which family members continue to receive assistance in the program. MMHA will decide which family member will be removed from the voucher, and any subsequent change will be made accordingly.

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

To be considered the remaining member of the tenant family, the person must have been previously approved by MMHA to be living in the unit and is not a live-in Aide. A live-in Aide, by definition, is not a member of the family and will not be considered a remaining member of the family. A reduction in family size may require a reduction in the voucher family unit size.

**F. ENCOURAGING PARTICIPATION IN LOW POVERTY AREAS**

MMHA will encourage the use of tenant-based vouchers for families to locate housing in neighborhoods that will improve opportunities for all household members, by promoting the HUD objectives of deconcentration.

**CHAPTER 8**  
**SUBSIDY STANDARDS**  
[24 CFR 982.54(d)(9)]

**PHILOSOPHY**

HUD guidelines require that MMHA establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding.

**POLICY**

MMHA's subsidy standards are used for the unit size selected by the family and must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the wait list, as well as MMHA's procedures when a family's size changes or a family selects a unit size that is different from the voucher.

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

MMHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher, with the exception of a bedroom granted as a reasonable accommodation. MMHA's subsidy standards for determining voucher size shall be applied in a manner consistent with current fair housing guidelines.

For subsidy standards, an adult is a person 18 years old or older. In cases where children are subject to a joint custody agreement it shall be MMHA policy to base it on who is the residential parent listed on the agreement for the children. The residential parent can include that child as a household member. If both are listed as residential parent, only one can claim the child and include that child in the household. Self-certification can be submitted by families who claim joint custody or temporary guardianship. However, further validation may be requested by MMHA. Some items that may be used for verification are:

- State or local government printouts;
- School verification; or
- Guardianship or adoption documents.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements. One bedroom will be generally being assigned for each two family members. MMHA may consider factors such as family characteristics including gender and relationships between members. Consideration will also be given for medical reasons and the presence of an approved Live-In Aide.

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

- No more than two person per bedroom
- A single parent will be given a separate bedroom from any children.
- Children of opposite sex will be afforded separate bedrooms.
- Persons of different generations will be offered separate bedrooms (Exp. Mother, Grandmother, Grandchild)
- Foster children will be included in determining unit size only if they are long-term foster children.
- A live-in aide will generally be provided a separate bedroom. Per PIH 2014-25, a PHA may only approve one additional bedroom for a live-in aid. Although a live-in aid may have PHA-approved family member/s live with him/her in the assisted unit, no additional bedrooms will be provided for the family members of the live-in aid. If the approval of additional family members of a live-in aid would result in violation of 24 CFR 982.401 (d)(2) (ii), the additional family members of the live-in aid may not be approved.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- A separate space will not be provided for a member who is away in the military.
- A single pregnant woman with no other family members will be treated as a two-person family.
- A single person family shall be allocated one bedroom

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

MMHA shall grant exceptions from the subsidy standards as per the Reasonable Accommodation Policy. Requests based on health-related reasons must be verified and is subject to MMHA approval. MMHA will verify the continued need for the reasonable accommodation each year.

**Changes for Participants**

The members of the family residing in the unit must be approved by MMHA and the landlord. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform MMHA within 10 calendar days. MMHA will not adjust a family's voucher size between recertification exams. MMHA may deny household additions that will result in the family being overcrowded. The above referenced bedroom guidelines will apply.

**Over housed Families**

If a family size decreases and the unit size is too large for the family, MMHA will issue a new voucher to the family for an appropriate size unit at the next annual recertification. Although families are not required to move from an assisted unit when the number of bedrooms in the unit exceeds the number of bedrooms for which the family is eligible, the payment standard must conform to the PHA's subsidy standards at the family's next annual recertification or upon transfer.

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

The family may select a different size dwelling unit, other than that listed on the voucher. There are two criteria to consider:

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

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

2.) Utility Allowance: The utility allowance used to calculate the gross rent is determined is the lower of:

- (1) The utility allowance amount for the unit size for which the voucher was issued; or
- (2) The voucher size issued to the family.



**CHAPTER 9**  
**FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION [24**  
**CFR Part 5, Subparts E and F; 982.153, 982.551]**

**PHILOSOPHY**

The accurate calculation of annual income and adjusted income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

**POLICY**

MMHA will use the methods, as set forth in this Administrative Plan, to verify and correctly determine family income at admission and subsequent reexaminations (annual/interim). This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation.

MMHA's policy in this Chapter addresses those areas which allow MMHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

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

**Income** includes all amounts, monetary or not, which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be counted and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted. MMHA will exclude from calculations of an individual income, any financial assistance received for mandatory fees and charges (in addition to school tuition).

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

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

- Actual income being received, or
- Past actual income received or earned within the last 12 months of the determination date, as HUD may prescribe in applicable administrative instructions when:
  - a) The family reports little or no income; and
  - b) The processing entity is unable to determine annual income due to fluctuations in income (e.g., seasonal or cyclical income).

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

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

**Adjusted Income** is defined as the annual income minus any HUD allowable expenses and deductions. HUD has five allowable deductions from annual income:

- **Dependent Deduction:** \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
- **Elderly/Disabled Deduction:** \$400 per family for families whose head, spouse, or co-head is 62 or over or disabled.

- **Medical Expense Allowance:** For purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense not compensated for or covered by insurance in excess of 10% of Annual Income. 24 CFR § 5603
- **Child Care Expense Deduction:** deducted for the care of children under 13 when childcare is necessary to allow an adult member to work, attend school, or actively seek employment.
- **Allowable Disability Assistance Expense Deduction:** deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

**B. MINIMUM RENT [24 CFR 5.616]**

"Minimum rent" is Zero (0). Minimum rent refers to the minimum TTP and includes the combined amount a family pays towards rent and/or utilities when it is applied.

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

Families must notify MMHA before they move out of a unit, and must inform MMHA within 10 days about any member of the household who will be absent from the unit for more than 5 consecutive days.

If the entire family is absent from the unit for five consecutive days or more, the unit will be considered vacated and the HAP Contract and voucher will be terminated. To determine if the family is absent from the unit, MMHA may conduct an investigation which may include a home visit, write letters to the family at the unit, telephone the family at the unit, contact landlord and/or verify if utilities are in service.

If a family member leaves the unit to enter a medical facility, MMHA will seek advice from a reliable qualified source about the likelihood and timing of the family member's return. If the member will be permanently confined to a nursing home, the member will be considered permanently absent. If the family member will return in 180 days or less, the member will not be considered permanently absent.

If any family member is incarcerated for more than 90 days, they will be considered permanently absent.

If the family includes children that are temporarily absent due to placement in foster care, MMHA will determine when they expect to be returned home. The children must be back in the unit by the annual recertification or the children will be removed and the subsidy standard will be adjusted or the family may have to move.

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

Any person, adult or child, not included on the HUD 50058 who has been in the unit more than 10 consecutive days without MMHA approval, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member.

Lack of verifiable evidence of any other permanent address by a 'visitor' will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the owner will be considered in making the determination.

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

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

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

In a joint custody arrangement and the tenant is not the residential parent, the visitation agreement issued by the courts is allowed visitation at the unit.

### **Reporting Additions to Owner and MMHA**

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

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

Families are required to report any additions to the household (with the exception of newborns) in writing to MMHA 10 calendar days prior to the proposed move-in date for MMHA approval. If the family does not obtain prior written approval from MMHA, any person the family has permitted to move in will be considered an unauthorized household member, and that move in will be considered a violation of family obligations. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations. If the family member being added to the household is 18 years old or older, mandatory background checks must be completed before MMHA will add member to the household.

An interim reexamination will be conducted when there are additions to the household, with the exception of minors. In addition, the tenant must obtain prior written approval from the landlord and present this to MMHA.

### **Reporting Absences to MMHA**

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

#### **D. AVERAGING ANNUAL INCOME [24 CFR § 913.106 (d)]**

If it is not feasible to anticipate income for a 12-month period, MMHA may use the annualized income anticipated for a shorter period, subject to an interim adjustment at the end of the shorter period. (This method may be used for seasonal employees who are only paid for 9 months a year, or for tenants receiving unemployment compensation). Examples include: teachers, school bus drivers, etc.

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

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

#### **E. MINIMUM INCOME**

There is no minimum income requirement. Families that report zero-income or less than welfare cash benefits, will be required to provide information regarding their means of basic subsistence, such as providing for food, utilities, transportation, etc. for a period of at least three months or until they have at least welfare equivalent income. Failure to comply with the zero income policy is grounds for termination. See "Zero Income Policy Chapter 9 Q".

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

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, MMHA will calculate the income by using the following methodology and use the income figure which would result in a lower payment by the family:

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

#### **G. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]**

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

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

If the family's expenses appear to exceed its known income, MMHA will inquire of the family more deeply regarding contributions, gifts, and means of subsistence.

#### **H. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]**

Regular alimony and child support payments are counted as income for calculation of TTP. If the amount of child support or alimony received is less than the amount awarded by the court, MMHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount. MMHA will accept verification that the family is receiving an amount less than the award if:

- MMHA receives verification of such from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

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

#### **I. CHILDCARE EXPENSES [24 CFR 5.603]**

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

In the case of a child attending private school, only after-hours care can be counted as childcare expenses. Allowance of deductions for childcare expenses is based on the following guidelines:

- Childcare to work: The maximum childcare expense allowed cannot exceed the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.
- Childcare for school: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

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

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

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

In cases where a reasonable accommodation has been provided to a family that includes a person with disabilities, MMHA will use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. MMHA will review the utility allowance schedule annually. The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the actual unit size selected.

MMHA will not allow for any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances during the initial lease term. After the initial lease term, any change governing tenant or owner responsibilities for utilities must be approved by MMHA. Failure to comply could result in contract cancellation and possible termination from the HCV Program.

**K. SEASONAL WORKER/EMPLOYEE**

An individual who is hired into a short-term position and the employment begins about the same time each year (such as in summer or winter) Typically, the individual is hire to address seasonal demands that arise for the particular employer or industry. MMHA will project and annualize income if feasible. Tenant still must report all income changes within 10 days. When reported, an interim will be scheduled if needed.

**L. INCOME FROM ASSETS\***

MMHA will count the current balances of savings and checking accounts as assets and annualize any income received from assets. (\*Also see **Exclusions-Assets on Page 31 Section \$\$\$\$**)

**M. Zero-income Families**

Persons claiming zero-income will also be asked to complete a family expense form at the time of recertification. The form will ask residents to verify how much they spend on: telephone, cable TV, food, clothing, transportation, health care, childcare, debts, household items, etc. Residents will then be asked how they pay for these items. The value of regular contributions, whether monetary or not, will be used to calculate annual adjusted household income. At each annual redetermination, if they are still 'zero income', we will refer to the zero income policy re: 3 monthly appointments to determine expense & how they are paid

**CHAPTER 10**  
**TENANCY APPROVAL AND CONTRACT EXECUTION [24 CFR 982.302]**

**PHILOSOPHY**

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

**POLICY**

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of MMHA, or outside of MMHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments (HAP) Contract with MMHA. The family must submit a *Request for Tenancy Approval* (RFTA) executed by both the landlord and the family to MMHA for units to be considered for participation in the HCV Program. This chapter defines the types of eligible housing, MMHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of RFTA.

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

MMHA will complete a criminal background check on all adult family member age 18 years old and over at annual recertification or when any new family member over 18 is added to the household. Background checks will be conducted to review information within a three-year look-back period. Please refer to Chapter 16 "Denial or Termination of Assistance."

**The Request for Tenancy Approval (RFTA)**

The Request for Tenancy Approval (RFTA), including Lead Paint Disclosure (24 CFR 35.92B) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the RFTA in the form and manner required by MMHA.

The RFTA must be signed by both the owner and voucher holder.

MMHA will not permit the family to submit more than one RFTA at a time per household. MMHA will not permit the landlord to submit more than one RFTA at a time per unit.

Families currently assisted by the HCV program will not be allowed to submit a RFTA prior to being issued, and submitting the signed voucher. If the family submits an RFTA prior to being issued and submitting a signed voucher, the RFTA will be canceled. MMHA will notify the prospective landlord and family of the cancellation in writing.

MMHA will review the RFTA for affordability and owner approval. Once the RFTA is approved, the unit will be scheduled for the initial inspection. If the RFTA is not approved, a cancellation letter (denial of HCV assistance) will be provided to both the family and owner listing the reason for cancellation.

MMHA will review the RFTA documents to determine whether or not they are acceptable. The request will be approved if:

- The unit is an eligible type of housing.
- The unit meets HUD's Housing Quality Standards, NSPIRE (and any additional criteria as identified in this Administrative Plan).
- The rent is reasonable.
- The security deposit is approvable in accordance with any limitations in this plan. The proposed lease complies with HUD and MMHA requirements (See "Lease Review").
- The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval").

**Cancellation of RFTA**

MMHA may cancel an RFTA that is not completed in its entirety or that is missing appropriate signatures and/or requested information. If MMHA determines that the request cannot be approved for any reason, the owner and the family will be notified in writing.

In addition to the above at the time a family initially receives assistance in a unit (new admissions and transfer/moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family

share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

**B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]**

MMHA approval of a housing type is subject to the following conditions:

- A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad.
- MMHA may not permit a voucher holder to lease a unit which is receiving project-based Housing Choice Voucher Program assistance or and duplicative rental subsidies.

**C. LEASE SUBMITTAL AND REVIEW [24 CFR 982.308]**

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

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

The lease must specify all of the following:

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

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

**Actions Required Before HAP Contract Begins**

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

- MMHA has inspected the unit and has determined that the unit passes HQS/NSPIRE standards;
- MMHA has determined that the rent charged by the owner is reasonable;
- The owner and the tenant have executed the lease, including the HUD described tenancy addendum;
- MMHA has approved leasing of the unit in accordance with program requirements;
- When the gross rent exceeds the applicable payment standard for the family, MMHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.
- The total monthly rental amount to owner cannot exceed the contract rent amount approved by MMHA.

**D. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]**

The owner is not required to, but may collect a security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge, subject to the limits of state and local law. In no case may the security deposit charged to an assisted tenant exceed that charged to an unassisted tenant, and can not be more than one month's rent unless it is lease in place.

**E. SEPARATE AGREEMENTS**

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

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

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item. If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable, customary for the local rental market, do not violate Ohio landlord/tenant law, and are not a substitute for higher rent, they will be allowed. All agreements for special items or services must be attached to the lease approved by MMHA. If agreements are entered into at a later date, they must be approved by MMHA and attached to the lease. MMHA will not approve separate agreements for modifications to the unit for persons with disabilities because the modifications are critical to the use of the dwelling.

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

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

**G. RENT LIMITATIONS [24 CFR 982.507]**

MMHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market.

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

The rent to owner may not be more than the most current reasonable rent as determined by MMHA. Rent increases may only be requested between 60 and 120 days prior to the annual recertification approved by MMHA.

**H. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]**

If the proposed gross rent is not reasonable or affordable to the family (family's portion exceeds 40% of the family's gross income), MMHA will notify the owner of the affordable or reasonable rent amount and give the owner an opportunity to reduce the requested rent amount. At the family's request, MMHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner. If the rent can be approved after negotiations with the owner, MMHA will continue processing the RFTA. If the owner does not agree on the rent after MMHA has tried and failed to negotiate a revised rent, MMHA will inform the family and owner that the unit is disapproved and will cancel the RFTA.

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

In accordance with HUD requirements, MMHA will furnish prospective owners with the family's current address as shown in MMHA's records and, if known to MMHA, the name and address of the owner at the family's current and prior residence. This is attached to the request for Tenancy Approval form at the briefing. MMHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

MMHA will inform owners that it is the responsibility of the owner to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy. MMHA's policy on release of information to prospective owners allows information to be provided orally or in writing. Only the assigned housing specialist or a manager may provide this information.

**J. OWNER DISAPPROVAL [24 CFR 982.306]**

See Chapter 17, "Owner Disapproval and Restriction."

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

MMHA prepares and sends the HAP Contract, Owner Responsibilities form, W-9 form, Ethnicity form, and direct deposit form to the owner or designated agent for execution. The family and owner will execute the lease agreement. The owner or designated agent will return all the above five (5) signed and completed documents to MMHA along with a signed copy of the lease agreement. If the documents submitted are unacceptable, the caseworker will call



the landlord/agent and explain why it is unacceptable and recommend a possible resolution. If it cannot be resolved, a rejection letter will be sent to both parties citing the reason for the rejection.

Copies of the documents will be furnished to the parties who signed the respective documents. MMHA will retain a copy of all signed documents.

The Director of Housing Choice Voucher Program and the Executive Director of the MMHA are authorized to execute a contract on behalf of MMHA.

Owners must provide either an Employer Identification Number or a Social Security Number on the W-9 form. The owner must provide a home telephone number and/or business number if applicable.

Unless their lease was effective prior to June 17, 1998, a participant family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. MMHA may grant waivers of this restriction, in writing, as a reasonable accommodation for a family member who is a person with a disability, subject to verification that such accommodation is needed.

**CHAPTER 11**  
**HOUSING QUALITY STANDARDS/NSPIRE AND INSPECTIONS [24 CFR 982.401]**

**PHILOSOPHY**

Housing Quality Standards (HQS)/NSPIRE (National Standards for the Physical Inspection of Real Estate) are the HUD minimum quality standards for tenant- based programs. The objective of the HCV Program is to assist low-income families in leasing decent, safe and sanitary housing at an affordable cost and in accordance with HUD and MMHA guidelines, which includes the HQS/NSPIRE Standards. Efforts will be made at all times to encourage owners to provide housing that exceeds HQS/NSPIRE minimum standards. MMHA is responsible for assuring that each unit occupied by an HCV Program participant meets the HQS/NSPIRE and MMHA guidelines.

**POLICY**

MMHA will inspect each unit under contract and proposed for participation with the program. MMHA will also have a designated employee trained in HQS/(NSPIRE) to perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain MMHA's required standards and to assure consistency in MMHA's program.

HQS/NSPIRE standards are required both at initial occupancy and during the term of the lease. HQS/NSPIRE standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS/NSPIRE inspection before the beginning date of the assisted lease and HAP Contract.

This chapter describes MMHA's procedures for performing HQS/NSPIRE and other types of inspections, and MMHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS/NSPIRE requirements for both families and owners. The use of the term "HQS/NSPIRE" in this Administrative Plan refers to the combination of both HUD and MMHA requirements.

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

For purposes of inspections, the term "HQS" refers to the Housing Quality Standards inspection, or the newer, required NSPIRE Inspections.

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the inspector will notify the owner to have the utilities turned on. After the owner notifies MMHA that the utilities have been turned on, the inspector will schedule an inspection or order a follow-up session.

There are five types of inspections MMHA will perform:

- 1) Initial/Move-in Inspection
- 2) Biennial Inspection
- 3) Complaint Inspection
- 4) Emergency Inspection
- 5) Quality Control Inspection

**B. HQS/NSPIRE INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]**

**Timely Initial Inspection**

MMHA will inspect the unit to determine whether the unit satisfies HQS/NSPIRE. To the greatest extent feasible, the inspection and determination will be made within fifteen days after the family and the owner submit a request for approval of the tenancy. MMHA will make every reasonable effort to conduct initial inspections as expeditiously as possible. The Initial Inspection will be conducted to:

- Determine if the unit and property meet HQS/NSPIRE standards.
- Document the information used for determination of rent- reasonableness.

If the unit fails the initial inspection, the owner and tenant will be informed and advised to notify MMHA once repairs are completed. On an initial inspection, the owner will be given until the end of the month to correct the items noted as Fail.

MMHA's determinations on initial inspections are not subject to appeal. MMHA may review discrepancies and inconsistencies regarding a failed item. Owners may contact the Director of Voucher Program or Landlord Liaison with any complaints. The Director of Voucher Program will review the matter and take appropriate action to address the issue.

### **C. BIENNIAL HQS/NSPIRE INSPECTIONS [24 CFR 982.405(a)]**

MMHA conducts an inspection in accordance with current inspection standards at least once every 24 months, as required by HUD and SEMAP for compliance. MMHA will conduct complaint, quality control or special inspections, if requested. Special inspections may be scheduled more frequently.

HQS/NSPIRE deficiencies which cause a unit to fail must be corrected by the owner and/or the tenant as applicable. The owner and the family must allow MMHA to inspect the unit at reasonable times with reasonable notice, during regular business hours. It is the tenant's responsibility to ensure that the unit can be accessed for the inspection. The owner may be present for the inspection. MMHA will notify the family and owner in writing with a minimum notice of 14 calendar days prior to the inspection. If it is a new inspection, MMHA will make contact via phone/email in order to expedite inspection.

Inspection: The family and owner are notified of the date and time of the inspection appointment by mail, email, or phone.

If the tenant misses an inspection appointment, MMHA will implement the 3 Warning Agency Policy or may move to terminate assistance to the family.

Re-inspection: The family and owner are notified of the scheduled re-inspection of unit by MMHA. If the re-inspection date is scheduled by MMHA after the due date, MMHA will assume repairs were made timely as long as the unit passes the re-inspection regardless of the date of the re-inspection. Under this situation, any abatement will be canceled and payments issued to owner.

If neither the owner nor the family is present for the re-inspection appointment, a notification of the missed inspection will be left at the unit and HAP abatement will occur once the "due date" for repairs expires. Once a unit goes into abatement because of the owner's failure to make repairs, the family will be allowed to submit a RFTA to MMHA for another unit, if there are no outstanding family responsible items. If the RFTA is submitted prior to MMHA verifying the repairs, the family will be allowed to move. If the owner makes the repairs and corrects the deficiencies prior to the family submitting a RFTA, the family will be allowed to move, with proper notification to the owner of their intent to vacate, if they are in a month-to-month tenancy. If the family is not in a month-to-month-tenancy, they will be required to remain in the unit until the completion of the lease term. Upon request, MMHA will schedule another re-inspection of the unit, if no RFTA has been submitted by the family.

A pattern of repeated non-compliance with the inspection process may result in suspension or termination of an owner and/or tenant. Non-compliance includes failure to make the unit accessible for a scheduled inspection, failure to make timely repairs, and failure to comply with applicable HUD regulations and requirements of this Plan.

If new deficiencies are found (items not noted at the original inspection) during the re-inspection, MMHA will open a new emergency or complaint inspection (whichever is appropriate for the deficiency) and notify the owner and tenant of the new items and provide a due date for the repair of those failed items.

If the tenant is responsible for a breach of HQS/NSPIRE as defined in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised by MMHA of their responsibility to correct the deficiency and given a timeframe for completion of repairs within 30 days or tenant may be terminated.

#### **Time Standards for Repairs**

Emergency or fail inspection items which endanger the family's health or safety must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notification and according to HQS/NSPIRE Guidelines. (See "Emergency Repair Items")

MMHA may approve an extension beyond the original 30 days, if requested by the owner. Extensions are granted at the discretion of MMHA. Extensions will not be considered without proper documentation to support the request.

#### **D. COMPLAINT INSPECTIONS [24 CFR 982.405(c)]**

If at any time the family or owner notifies MMHA that the unit does not meet HQS/NSPIRE Standards, MMHA will conduct an inspection within 15 days of notification of the situation [for non-emergency items](#). MMHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs within 30 days. It is the responsibility of the tenant and owner to notify MMHA as soon as repairs are done.

Re-inspection: The tenant and owner are notified of the re-inspection of failed items. The tenant and owner must call for follow-up inspection by the due date to schedule re-inspection

#### **Time Standards for Repairs**

Repairs needed to resolve a Complaint Inspection must be completed within 30 days, for nonemergency items, of the notification of the deficiency to responsible party(s).

#### **E. EMERGENCY INSPECTIONS**

Emergency inspections are complaint inspections conducted when the complaint involves an exigent situation that endangers the family's health or safety (see "Emergency Repair Items"). MMHA will inspect the unit within 24 hours upon receipt of notification of the emergency situation.

If the condition is life-threatening, MMHA will require the owner or family to make the repair or correct the deficiency within 24 hours or in accordance with HQS/NSPIRE Guidelines.

#### **F. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]**

Quality Control inspections will be performed by the Quality Control Inspector or Director of Voucher Program on the number of units required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS/NSPIRE Standards. The random sampling of files will include recently completed inspections (within the prior 3-6 months), a cross-section of neighborhoods, and a cross-section of inspectors. The family and owner are notified of the date and time of the inspection appointment by mail. If neither the family nor the owner is able to be present, the tenant is responsible for rescheduling the appointment prior to the inspection time.

If the tenant does not contact MMHA to reschedule the inspection, or if the tenant misses two inspection appointments, MMHA may terminate assistance to the family or issue a warning per the compliance warning policy.

Re-inspection: The family and/or owner are notified of the re-inspection of failed items appointment date and time by MMHA

#### **G. SPECIAL INSPECTIONS**

This inspection type is performed to follow-up on any previously passed, inconclusive inspection items, to verify completion of weather related repair extensions, to verify the need for a reasonable accommodation request, to verify the occupancy of the unit by the assisted family, and as needed to ensure program rules are being adhered to.

#### **H. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]**

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- Utilities are not on (i.e. electric, gas, and/or water)-Winter Only.
- Smoke detector missing, damaged, or missing battery.
- Improper flue connection for furnace or water heater.
- No heat when inside temperature is below 60°.
- Other life threatening issues

All emergency inspections will be re-inspected by MMHA. If the Self-Certification form is returned and subsequent inspection indicates that the repairs were not completed, MMHA may terminate the HAP Contract. If the emergency repair items are not corrected in the time period required by MMHA, and the owner is responsible, the Housing Assistance Payment will be abated and the HAP Contract will be terminated.

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

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

When it has been determined that a unit on the program fails to meet HQS/NSPIRE, and the owner is responsible for completing the necessary repair(s) in the time period specified by MMHA, the assistance payment to the owner will be abated.

**Abatement**

The abatement will be effective the day after the repair deadline. For non-emergency repairs, the owner is given up to 30 calendar days to make the repair.

Abatements will go into effect the first of the month following the due date for repairs. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. MMHA will recoup from future disbursements any amounts owed as an overpayment. If repairs are not done within 30 days of abatement, the tenant will be issued a 60-day voucher to move to another unit. Payments will then be recouped from future of housing assistance payments. MMHA will not abate a unit if the re-inspection is delayed due to scheduling as long as the unit passes on the date of the initial re-inspection. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The steps outlined in this chapter does not prevent MMHA from taking other necessary measures for "corrective action" when necessary.

**Extensions**

Extensions for correcting non-life-threatening HQS/NSPIRE deficiencies may be granted in cases where MMHA determines that the owner or family has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond their control. The length of the extension will be determined on a case-by-case basis.

Reasons for an extension may include, but are not limited to:

- An unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services;
- Delays due to climate conditions;
- Complexity or extensive nature of repairs which make it impossible to complete the repairs by the original due date;
- Serious illness or death of the significant party.

The request for an extension must be made in writing to the HCV Director prior to the due date for repairs. All requests must have third party documentation of the reason for an extension request to be considered for approval (except for weather related requests). For conditions that are life-threatening, the PHA cannot grant an extension to the 24-hour corrective action period.

**Termination of Contract**

MMHA will terminate the HAP Contract when an owner fails to correct all the deficiencies cited within 30 days of the effective abatement date. Prior to the effective date of the termination, the abatement will remain in effect. If repairs are completed before the effective termination date, the termination may be rescinded by MMHA if the tenant chooses to remain in the unit.

MMHA's HQS/NSPIRE determinations are not subject to appeal. MMHA may review discrepancies and inconsistencies regarding a failed item. Owners may contact the MMHA Landlord Liaison or Director of Voucher Program with any issues. MMHA Staff will review the matter and take appropriate action to address the issue.

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

Certain HQS/NSPIRE deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service or not established in the name of an adult household member.
- Failure to provide or maintain family-supplied appliances.
- Damage to the unit or premises caused by a household member or guest that exceeds normal wear and tear. "Normal wear and tear" is defined as items that cannot be charged against the tenant's security deposit under state law or court practice
- Replacement of batteries in smoke detectors.

The owner is responsible for all other HQS/NSPIRE violations.

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

If non-emergency violations of HQS/NSPIRE are determined to be the responsibility of the family, MMHA will normally require the family to make any repair(s) or corrections within 30 calendar days. Utility shut-offs must be corrected within 72 hours. If the repair(s) or correction(s) are not made within the required time period, MMHA may terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the Director of Voucher Program or their designee. The owner's rent will not be abated for items which are the family's responsibility. If the tenant is responsible for violations and corrections are not made, the HAP Contract will terminate when assistance is terminated.

**CHAPTER 12**  
**OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS**  
**[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]**

**POLICY**

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

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

**A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

MMHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508) or moving to a newer unit. At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly-adjusted income.

During the initial term of the lease, the owner may not raise the rent. Rent increases after the 1<sup>st</sup> year must be requested by owner during annual recertification process only.

**B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]**

Once the HAP Contract is executed, MMHA begins processing payments to the owner. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Payments are disbursed by MMHA's Finance Department to the owner each month. All Housing Assistance Payments will be directly deposited to the owner's account (preferred) or a handwritten check is mailed. Owners may request a copy of a HAP statement or I-1099 form from MMHA.

Housing Assistance Payments for the beginning of the month will be paid to owners when funds are received by HUD. MMHA expects to make this payment no later than the fifth (5th) of the month. Additional disbursements of payments may be made to owners, if funds are available. When a payee reports that a payment has not been received, MMHA will investigate the report and reissue the payment if warranted on the next regularly scheduled check run.

**Contract Rent Adjustments**

An owner may request a rent adjustment, in writing, once every 12 months at the annual redetermination date.

**Excess Payments**

The total of rent paid by the tenant plus MMHA's Housing Assistant Payment to the owner may not be more than the total approved rent. The owner may not demand or accept any rent payment from the tenant in excess of this total approved rent payment from the tenant unless said payment was preauthorized by MMHA. The owner must immediately return any excess payments made by or on behalf of the family to the tenant. Owners who do not return excess payments may be subject to penalties as outlined in the "Owner or Family Debts to MMHA" chapter of this Administrative Plan. Owners must also promptly credit and/or refund to the tenant family any overpayments made by the family for their share of the rent. Failure to do so will be considered a program violation. If MMHA determines that the owner is not entitled to a housing assistance payment or any part of it, MMHA will deduct the amount of the overpayment from any amounts due the owner (including amounts due under any other HCV/Section 8 assistance contract). MMHA may also elect to pursue other collections methods as permitted by law.

**C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]**

MMHA will determine and document on a case-by-case basis that the approved rent for a unit is reasonable in comparison to rent for other comparable unassisted units in the market. MMHA will not approve a lease until it determines that the initial rent to owner is a reasonable rent. MMHA must re-determine the reasonable rent before any increase in the rent to owner. MMHA must re-determine rent reasonableness if directed by HUD and based on a need identified by MMHA's auditing system. MMHA may elect to re-determine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most

recently determined or re-determined by MMHA. The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

#### **Dwelling Units in Multi-Family Buildings**

Where there are four (4) or more units in a building, MMHA may establish the rent to owner by performing one rent reasonable assessment for each unit type. MMHA will maintain this information and use in determining the rent reasonable for each unit proposed for assistance. MMHA will intermittently review the reasonable rent for these units to ensure that the rent to owner is not more than rent charged by the owner for comparable unassisted units on the premises. If requested, the owner must give MMHA information on rents charged by the owner for other unsubsidized units in the premises or elsewhere.

#### **Rent Reasonableness Methodology**

MMHA uses a web-based computer system to calculate the reasonable rent for proposed program units. The rent reasonableness database is compiled using information gathered on unassisted rental units throughout Miami County by way of surveys. An analysis of the rental comparable database is used to determine the most significant indicators of rental value and to derive a formula to calculate the reasonable rent. The entire rent reasonable calculation is automated. MMHA's Rent Reasonableness determinations are not subject to appeal. MMHA will review discrepancies regarding unit amenities or conditions to ensure the rent reasonable assessment is accurate. MMHA will update all information on an "as needed" basis, dependent upon changing market conditions. The data for other unassisted units may be gathered from local newspapers, Realtors, apartment guides, professional associations, inquiries from owners, market surveys, and other available sources.

#### **Rent Reasonableness Appeal**

MMHA may review assessment discrepancies regarding unit amenities, locations, quality, size or conditions to ensure the rent reasonable assessment is accurate. Owners may contact the HCV Director with any discrepancies. The HCV Director or his or her designee will review the matter and take appropriate action to address the concern.

#### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]**

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulations, and at MMHA's discretion, the Voucher Payment Standard amount is set by MMHA between 90 % and 110 % of the HUD published FMR. This is considered the basic range. MMHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, MMHA will ensure that the Payment Standard is always within the range of 90% and 110 %of FMR. MMHA may approve a higher payment standard up to 120 % of the published FMR, if required as a reasonable accommodation for a family that includes a person with disabilities. MMHA will request HUD approval for payment standards in excess of 120 %, if needed as a reasonable accommodation for a family that includes a person with a disability.

#### **E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]**

Payment Standards may be adjusted, within HUD regulatory limitations. MMHA will review payment standards and HUD-published FMARs yearly to ensure standards are between 90 – 110% of FMRs for the jurisdiction. MMHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

#### **Assisted Families' Rent Burdens**

MMHA may review its voucher payment standard amounts to determine whether more than 40 % of families in a particular unit size are paying more than 30 % of their annual adjusted income for rent. If it is determined that particular unit sizes in MMHA's jurisdiction have payment standard amounts that are creating unacceptable rent burdens for families, MMHA may modify its payment standards for those particular unit sizes. MMHA may increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in MMHA's jurisdiction are paying.

#### **Lowering of the Payment Standard**

MMHA's Payment Standards may be lowered:

- To maintain the payment standards within the established ranges of HUD's published FMRs;
- To more accurately reflect current area market rents; or



- To achieve maximum participant utilization based on HUD's newest budget based program funding formula.

In any case, the Payment Standard will not be set below 90% of the FMR without authorization from HUD. If there is a decrease in a payment standard as a result in published FMRs, MMHA will continue to use the higher payment standard used to calculate subsidy as long as the family continues to receive voucher assistance in the current unit and the payment standard does not exceed 120% of published FMR. The decreased payment standard will be applied for subsidy calculation when the family moves to a new unit.

#### **Financial Feasibility**

Before increasing the Payment Standard, MMHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served. For this purpose, MMHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards. Payment Standard Decrease will not affect the tenant until the 2<sup>nd</sup> annual after the decrease with notification at the 1<sup>st</sup> annual after the decrease of pending change.

#### **File Documentation**

A file will be retained by MMHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

**Chapter 13**  
**Recertification [24 CFR 982.516] / Interims**

MMHA will conduct annual recertification's to ensure that assisted families are eligible for continued assistance from the HCV program.

**POLICY**

In accordance with HUD requirements, MMHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertification and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. MMHA will run EIV reports for all annual and interim certifications. MMHA will compare information reported on the EIV report to income information reported by the family. If EIV information is disputed by the family, MMHA will request third-party verification. All annual recertification activities will be coordinated in accordance with HUD regulations.

It is a HUD requirement that families report all changes in household composition. This Chapter defines MMHA's policy for conducting annual recertification's and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

**ALL HOTMA RELATED POLICY CHANGES WILL BE EFFECTIVE SEPTEMBER 1, 2024 AND MMHA WILL BE FULLY COMPLIANT BY JANUARY 1, 2025**

**A. Interims & Reporting Changes – Effective 1/1/2025**

1. Tenants are required to report **all changes in income, family composition or status** within 10 calendar days of the occurrence. Failure to report within the 10 calendar days may result in the termination of benefits or retroactive rent increases.
2. The caseworker will determine if a rent adjustment is required. Under HOTMA, PHA's are not required to perform interim rent adjustments if they believe that the difference in a family's annual income is due to an increase of **earned income**. This encourages families to improve their economic circumstances.

If there has been a reduction in rent share prior during this annual cycle, (including if they have had zero or low income) then you may count the increase in income.

MMHA declines to do interim adjustments in the last 3 months prior to the family's annual reexamination. The increase in rent share will take place at the annual reexamination date.

<b>INCOME CHANGE</b>	<b>PH ACTION</b>
(a) Decrease in income for any reason, <u>except</u> for decrease that lasts less than 30 days.	Process interim rent reduction if income decrease will last more than 30 days.
(b) Increase in verified family deductions	Process interim rent reduction if income decrease will last more than 30 days and reduces adjusted income by more than 10 percent. 24 CFR § 5.609
(c) Increase in income following PHA granting interim rent decrease.	Process interim rent increase for income increases after interim rent reductions.
(d) Increase in earned income from the employment of a current household member.	Defer rent increase until next regular re-exam unless the family has had an interim rent reduction in the re-exam period. 24 CFR§ 960.255

(e) Increase in unearned income (e.g., COLA adjustment for social security).	Defer rent increase to the next regular re-exam unless the increase is more than 10 percent of annual income.
(f) Increase in income because a person with income (from any source) joins the household.	Conduct an Interim Redetermination of the family's income and raise the rent.
(g) Increase in income because Tenant misrepresented income or deductions.	Conduct an Interim Redetermination of the family's income and raise the rent retroactively to the date of the misrepresentation or terminate the lease.
(h) Increase in monetary or non-monetary income after Resident claims zero income	Process an interim rent increase.

3. As has been the case since the implementation of the QHWRA rules, if a family has their TANF grant cut because of welfare fraud or failure to comply with economic self-sufficiency requirements, the PHA will not grant a rent reduction.

MMHA will use last year's income for Annual Income, taking into account any interim changes since the last reexam.

MMHA may also use other agency's determinations of Annual Income although the rules on 3<sup>rd</sup> party verification still apply. MMHA may use incomes verified by:

- TANF
- Medicaid
- SNAP (food stamps)
- Earned Income Tax Credit
- Low Income Housing Credit
- WIC
- SSI

**B. Annual Income** 24 CFR § 5.609(a)

Annual income includes, with respect to the family:

1. All amounts not specifically excluded in the list of excluded income below, 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 \$50,000 (which amount HUD will adjust in accordance with the Consumer Price Index) 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

**C. Excluded Income** 24 CFR § 5.609(b)

Annual Income does not include the following:

1. Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index) and no actual income from the net family assets can be determined. Actual income from assets will be included.
2. The following types of trust distributions:
  - a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets
    - i. Distributions of the principal or corpus of the trust; and
    - ii. Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

- b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- 3. Earned income of children under the age of 18 years.
- 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 worker's 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.
- 9. Certain student financial assistance to students as provided below:
- 10. Excluded Student Financial assistance covers 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, 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
- 11. With respect to student financial assistance the following is excluded:
  - a. Any assistance that section 479B of the Higher Education Act of 1965 requires to be excluded from a family's income,
  - b. Plus, any of the following up to the total amount of Excluded Student Financial assistance as defined above received from:
    - i. *The Federal government.*
    - ii. *A State, Tribal or local government.*
    - iii. *A private foundation registered as a nonprofit under 502(c)(3).*
    - iv. *A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation or nonprofit entity; or*
    - v. *An institution of higher education.*
  - c. Student financial assistance that is included in Annual Income includes:
    - 1) 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)
    - 2) Gifts including gifts from family or friends
    - 3) Any amount of scholarship or grant that, either by itself or in combination with assistance excluded in 9.a above, exceeds the excluded Student Financial Assistance defined in 9 above.
- 12. 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.
- 13. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- 14. Additionally excluded are:
  - a. Amounts received by a person with disabilities that are disregarded for a limited time for

purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self-Sufficiency (PASS).

- b. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) to allow participation in a specific program.
  - c. 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.
  - d. Incremental earnings and/or benefits resulting to any family member from participation in qualifying state or local employment 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. 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 9 above.
15. Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
  16. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent.
  17. Adoption assistance payments in excess of the amount of the deduction for a dependent.
  18. Deferred periodic payments of 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. But the periodic payments from these sources are income.
  19. Payments related to aid and attendance under 38 USC 1521 to veterans in need of regular aid and attendance.
  20. 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.
  21. 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.
  22. 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).
  23. 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. 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 the United States Housing Act of 1937. (A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.)

The following is a list of benefits excluded by other Federal Statute:

- a. The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977; 7 USC 2017 (h)

- b. Payments to volunteers under the Domestic Volunteer Service Act of 1973; **42 USC 5044 (g), 5088**

Examples of programs under this Act include but are not limited to:

- the Retired Senior Volunteer Program (RSVP), Foster Grandparent Program (FGP), Senior Companion Program (SCP), and the Older American Committee Service Program.
  - National Volunteer Antipoverty Programs such as VISTA, Peace Corps, Service Learning Program, and Special Volunteer Programs.
  - Small Business Administration Programs such as the National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE).
- c. Payments received under the Alaska Native Claims Settlement Act; 43 USC.1626 (a)
- d. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes; 25 USC. 459e
- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; 42 USC 8624 (f)
- f. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians; P. L. 94-540, 90 Stat 2503-04
- g. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims 25 USC 1407-08, or from funds held in trust for an Indian Tribe by the Secretary of Interior; and 25 USC 117b, 1407
- h. Payments received from programs funded under Title V of the Older Americans Act of 1965: 42 USC 3056 (f)
- Examples of programs under this act include but are not limited to: Senior Community Services Employment Program (CSEP), National Caucus Center on the Black Aged, National Urban League, Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.
- i. Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established in the In Re Agent Orange product liability litigation.
- j. Payments received under Maine Indian Claims Settlement Act of 1980; P.L. 96-420,94 Stat. 1785
- k. The value of any childcare 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 USC 9858q
- l. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.
- m. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990.
- n. 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.
- o. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.
- p. Kinship Guardian assistance payments and other guardianship care payments.
- q. Any amount received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced price lunches and food under WIC.
- r. Payments, funds or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990.

- s. Compensation received by or on behalf of a veteran for service connected disability, death, dependency or indemnity compensation as provided by the Indian Veterans Housing Opportunity Act of 2010.
  - t. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case *Elouise Cobell et al v Ken Salazar*.
  - u. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4)).
  - v. Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
  - w. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).
25. Replacement housing “gap” payments that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another. Such 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.
26. 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:

- a. Payments from the US. 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.
  - b. Direct Federal or State payments intended for economic stimulus or recovery.
  - c. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
  - d. Amount directly received by the family as a result of Federal refundable tax credits and Federal tax received the time they are received.
  - e. Gifts for holidays, birthdays or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
  - f. Non-monetary, in-kind donations, such as food, clothing or toiletries received from a food bank or similar organization.
  - g. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
27. Civil rights settlements or judgments, including settlements of judgments for back pay.
28. Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirements 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.
29. Income earned on amounts placed in a family’s Family Self Sufficiency Account.
30. Gross income a family member receives through self-employment or operation of a business except that the following shall be considered income to a family member:
- a. Net income from the operation of a business or profession. 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 IRS regs, and
  - b. Any withdrawal of cash or assets from the operation of a business or profession will be included in income except to the extent that the withdrawal is reimbursement of case or assets.

**D. Adjusted Income** 24 CFR § 5.611

Adjusted income means annual income as of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

- A. \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index, rounded to the next lowest multiple of \$25.
- B. \$525 for any elderly family or disabled family, which amount will be adjusted annually in accordance with the Consumer Price Index, rounded to the next lowest multiple of \$25.
- C. The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - a. Unreimbursed health and medical care expenses of any elderly family or disabled family; and
  - b. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the members who is a person with a disability) to be employed. This deduction may not exceed the combined earned income received by adult family members who are able to work because of such attendant care or auxiliary apparatus; and
- D. Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.
- E. Additional relief may be available financial relief for an elderly or disabled family or a family that includes a person with disabilities that is experiencing financial hardship.
  - a. Eligibility for relief: To receive hardship relief under this paragraph, a family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change of circumstances that would not otherwise trigger an interim reexamination. A financial hardship is when health and medical expense trigger tenant's rent share to exceed 75% of their monthly adjusted income.
  - b. Relief under this paragraph is available regardless of whether
    - i. the family previously received deductions noted above,
    - ii. is currently receiving relief noted above, or
    - iii. previously received relief as noted above.
  - c. Form and duration of relief.
    - i. The family will receive a deduction for the sum of
      - a. unreimbursed expenses for health and medical care, plus
      - b. unreimbursed care and apparatus expenses for a disabled family member that permit a family member to work that exceed 5 percent of annual income.
    - ii. 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 comes earlier.
- F. MMHA will continue this relief until the circumstances that made the family eligible for the relief are no longer applicable.

- E. Net Family Assets** – 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. 24 CFR § 5.603

In determining net family assets PHAs or owners 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 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 an owner from selling the property or other



investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Excluded from the calculation of net family assets are:

- The value of necessary items of personal property
- The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which will be adjusted by HUD in accordance with the Consumer Price Index)
- The value any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements, employer retirement plans (pensions), and retirement plans for self-employed individuals.
- 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.
- 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.
- The value of any Coverdell education savings account under section 530 of the IRS code, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account under Section 629A of such Code, and the value of any “baby bond account created, authorized or funded by Federal, State or local government.
- Interests in Indian trust land
- Equity in a manufactured home where the family receives assistance under the Housing Choice Voucher program.
- Family Self Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after the receipt by the family.
- An irrevocable trust.

F. **New Definitions** have been added. Some of these are needed because they are referenced in other parts of the regulation. Others simply clarify our programs. All those presented below have been added.

1. **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.
2. **Dependent** - A member of the family (which excludes foster children and foster adults), other than the family head or spouse, who is under 18 years of age, or 18 years of age or older and disabled, or a full-time student. 24 CFR § 5.603
3. **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, SSI, and governmental subsidies for certain benefits) or any cash or in-kind benefits. 24 CFR § 5.100
4. **Family** – Includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity or marital status: 24 CFR §§ 5.403

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 USC 674(5)(H)), and is homeless or is at risk of becoming homeless at age 18 or older; or

A group of persons residing together, and such group includes but is not limited to:

- A family with or without children (a child who is temporarily away from 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.
5. Foster Adult – A member of the household (but not the family) 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 judgement decree, or other order of any court of competent jurisdiction.
  6. Foster Child – a member of the household (but not the family) 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.
  7. Health and medical care expenses – 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.
  8. Home you Could Live in – a home you have the right to sell, that is not owned jointly with a person who is not a member of the applicant/tenant/voucher holder family, that is not unsuitable for the disabilities of any family member, that is not in such substandard condition that it is uninhabitable, or that is not located in a place that is too distant to make commuting to work infeasible.
  9. Independent contractor – An individual who qualifies as an independent contractor instead of an employee in accordance with the IRS 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.
  10. Medical Expense Allowance - For purposes of calculating adjusted income for elderly or disabled families only, medical expenses mean the medical expense not compensated for or covered by insurance in excess of 10% of Annual Income. 24 CFR § 5.603
  11. Minor – A member of the family, other than the head or spouse, who is under 18 years of age.
  12. 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
  13. Seasonal Worker – an individual who is hired into a short-term position 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.
  14. Unearned income – means any annual income, as calculated under § 5.609 that is not earned income.

2024 Inflation Adjusted Values Table on next page----->

Effective 9/1/2024 MMHA will implement the following changes:

2024 Inflation-Adjusted Values (Table 1): Effective September 1, 2024

Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs <sup>1</sup>
Asset Limitation	Eligibility restriction on net family assets	24 CFR § 5.61	\$100,000	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA
Annual Income	Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(l)	\$50,000	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IR?} 11 PRA SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Threshold above which the total value of nonnecessary personal property is included in net family assets	24 CFR § 5.603(b) Definition Netfamily assets	\$50,000	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 11 PRA SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	The amount of net assets for which the PHA/MFH Owner/Grantee may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.5156) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	\$50,000	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 11 PRA SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF

<sup>1</sup> Some components in Tables I & 2 may also apply to other HUD programs not listed here that use the definitions of annual income and adjusted income in 24 CFR Part 5, subpart F to determine eligibility or assistance levels.

Calculation Component	Adjusted Item	Regulatory Reference	Amount	Applicable Programs <sup>1</sup>
Annual Income	Income exclusion for earned income of dependent fulltime students	24 CFR § 5.609(b)(14)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
	Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME, HTF
Adjusted Income	Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	\$525	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IR-P, SPRAC, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME
	Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	\$480	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO, HOPWA, HOME

### **15. Moves Between Reexaminations**

When families move to another dwelling unit, MMHA will process a transfer certification, "Other Change of Unit". The RFTA will be processed using the current household income verified and on file for the family. Families will not be allowed to randomly add or remove sources of income (i.e., regular contributions, temporary employment income) in order to qualify for a unit (also known as "income shopping"). The family's recertification date will be one year from the other change of unit date.

### **16. Reexamination Notice to the Family**

MMHA will maintain a reexamination tracking system and the participant family will be notified by mail and/or email of the date and time for their interview at least 90-120 days in advance of the anniversary date. If requested as a reasonable accommodation by a person with a disability, MMHA will provide the notice in an accessible format. MMHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with a verified disability. All adult household members age 18 and over are required to attend the scheduled recertification appointment unless the adult is in school. MMHA will verify the student's enrollment. If the participant family contains a minor who will reach maturity prior to the effective date of the annual certification, the certification appointment date may be delayed.

Income limits are not used as a test for continued eligibility at recertification.

#### **Procedure**

MMHA's procedure for conducting annual recertification's will be:

Schedule the date and time of appointments and mail and/or email a notification to the family and owner. If the family fails to attend the initial appointment, they will be subject to the three (3) Warning Agency Policy and rescheduled or possibly have benefits terminated. MMHA may elect to have a family recertify via mail.

#### **Completion of Annual Recertification**

It is MMHA's goal to have all recertification for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in the family's rent.

#### **Persons with Disabilities**

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

#### **Collection of Information [24 CFR 982.516(f)]**

MMHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. MMHA will allow the family to complete the recertification form. MMHA will require the family to complete an Application Update Form prior to all recertification interviews and bring it with them to office appointment along with a list of required documents.

#### **Requirements to Attend**

The following family members will be required to attend the recertification interview:

- The head of household and spouse or co-head
- All adult household members age 18 and over, unless the adult is a student at school.

If any adult household member is unable to attend the interview, the appointment will be rescheduled. MMHA encourages family not to bring small to children to the recertification appointment.

### **Documents Required from the Family**

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

- Documentation of all assets with a net value greater than \$5,000 Self- Certification/Declaration of assets with a net value up to \$5,000
- Documentation of all household income
- Documentation of any deductions/allowances
- Current picture ID for every adult household member
- Copy of most recent utility bills
- Federal IRS 1040 & W2's for most current year
- MMHA's HCV Program's Application Update Form

### **Criminal Background Checks for All Adult Members of the Household**

Every Adult household member will be required to sign a release to allow MMHA to conduct an annual criminal background check at recertification. MMHA may also retrieve information available through public records to ascertain criminal background information as needed. Any unsatisfactory criminal background check, as determined by MMHA, can result in program termination. A history of violent criminal activity, drug-related criminal activity, or if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program, would be considered unsatisfactory. MMHA will not solely rely on an arrest record as proof of criminal activity.

### **Verification of Tenant-Paid Utilities**

MMHA will verify at the annual recertification appointment that tenant-paid utilities are in the name of an authorized adult household member within the family.

### **Verification of Information**

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

### **Tenant Rent Increases**

After all recertification paperwork is reviewed, if a tenant rent increases, a notice is mailed to the family at least thirty (30) days prior to the scheduled effective date of the annual recertification. If less than thirty days are remaining before the scheduled effective date of the annual recertification, the participant family's rent increase will be effective on the first of the month following the 30-day notice. If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

### **Tenant Rent Decreases**

If tenant rent is set to decrease, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by MMHA. If untimely delays are involved, the tenant may be subject to termination of benefits or warnings.

## **I. OTHER INTERIM REPORTING ISSUES**

### **1. Standard for Timely Reporting of Changes**

MMHA requires that families report interim changes in writing, within 10 days of when the change occurs. If the change is not reported within the 10-day time period, it will be considered untimely reporting.

### **2. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]**

MMHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," which is a reduction in benefits by the welfare agency specifically because of:

- Fraud in connection with the welfare program, or
- Noncompliance with a welfare agency's requirement to participate in an economic self-sufficiency program.

- Participant's voluntary termination of benefits because they were placed under a sanction for fraud or noncompliance with a welfare agency's requirement to participate in an economic self-sufficiency program

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

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

### **3. Definition of Covered Family**

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

### **4. Definition of "Imputed Welfare Income"**

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by MMHA, based on written information supplied to MMHA by the welfare agency, including:

- The amount of the benefit reduction
- The term of the benefit reduction
- The reason for the reduction
- Subsequent changes in the term or amount of the benefit reduction.

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency). The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero. If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income. If the family claims the amount of imputed welfare income has been calculated incorrectly, the HCV Director or their designee will review the calculation for accuracy. If the imputed welfare income amount is correct, MMHA will provide a written notice to the family that includes:

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

### **5. Verification Before Denying a Request to Reduce Rent**

MMHA will require written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements before denying the family's request for rent reduction. MMHA will rely on the welfare agency's written notice to MMHA regarding welfare sanctions.

### **6. Family Dispute of Amount of Imputed Welfare Income**

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

- An explanation for MMHA's determination of the amount of imputed welfare income.
- A statement that the tenant may request an informal hearing.

A statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be MMHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

**7. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH98-6]**

The HUD Form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change "Recertification Addendum" is mailed to the owner and the tenant. Signatures are not required by MMHA. If the family disagrees with the rent adjustment, they may request a rent review. If after a rent review the family still disagrees with the rent adjustment, they may request a review with their caseworker and their supervisor.

**8. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]**

**Standard for Timely Reporting of Changes**-See earlier Section of this chapter

MMHA requires that families report interim changes to MMHA within 10 calendar days of when the change occurs. Any information, document, or signature needed from the family, which is needed to verify the change, must be provided at interim appointment.

**9. MISREPRESENTATION OF FAMILY CIRCUMSTANCES [24 CFR792]**

Fraud and abuse means a single act or patterns of actions (inactions) where a participant makes a false statement, omits or conceals substantive fact, with the intent to deceive or mislead; and said statement, omission or concealment results in a housing assistance payment in violation of Housing Choice Voucher Program requirements. This deliberate misrepresentation may result in the termination of assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)



**CHAPTER 14**  
**MOVES WITH CONTINUED ASSISTANCE/PORTABILITY**

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

**PHILOSOPHY**

HUD regulations permit families to move with continued assistance to another unit within MMHA's jurisdiction, or to a unit outside of MMHA's jurisdiction under portability procedures.

**POLICY**

This chapter defines the procedures for moves both within and outside of MMHA's jurisdiction, and the policies for restriction and limitations on moves. It is MMHA policy that the tenant must complete the 1<sup>st</sup> year of the lease in the initial unit or enter into a mutual rescission with the landlord and MMHA before being eligible to move with assistance.

**A. ALLOWABLE MOVES**

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

- They have completed the 1<sup>st</sup> year of the lease of the old unit or mutual rescission.
- The assisted lease for the old unit has terminated because MMHA has terminated the HAP Contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family, or there is a threat or risk to the personal safety of a household member.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family for matters not constituting a lease violation.
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

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

If MMHA has insufficient funding to support continued assistance for participating families, it may deny a family's request to voluntarily move. MMHA will inform families submitting requests to move that voluntary moves are prohibited unless the family can show that MMHA will pay the same or a lesser amount in subsidy than the current subsidy being paid.

Families will not be permitted to move during the initial year of assisted occupancy. The HCV Director or their designee may make exceptions to this restriction if there is a compelling reason for the move or as a reasonable accommodation to a disabled family or as is required in the Violence Against Women's Act (VAWA) or mutual rescission.

Families will not be permitted to transfer to a new unit more than once in a 12- month period. The HCV Director or their designee may make exceptions to this restriction if there is a compelling reason for the move or as a reasonable accommodation to a disabled family or as is required in the Violence Against Women's Act (VAWA).

MMHA may deny permission to move if:

- The family has violated a family obligation.
- The family owes an outstanding balance to MMHA or another PHA.
- The family is currently under eviction or has received a notice to terminate tenancy from their current landlord for a lease violation
- Proper notification was not provided to current landlord and/or MMHA.
- The family is under termination by MMHA for a program violation.

The HCV Director or his/her designee may make exceptions to these restrictions if there is a compelling reason for the move. The family will be entitled to a hearing if a request to move is denied by MMHA.

### **C. PROCEDURE FOR MOVES [24 CFR 982.314]**

#### **Issuance of Voucher**

Subject to the restrictions on moves, if the family has been recertified within the last 12 months, MMHA will issue the voucher to move after attending a transfer briefing with MMHA staff. If the family does not locate a new unit, they may remain in the current unit so long as the owner permits and all requirements are met. If not, and the voucher is expired, the assistance will also be terminated without penalty.

#### **Notice Requirements**

The family must give the owner at least 30 days written notice of intent to vacate specified in the lease and must give a copy to MMHA simultaneously. If the number of days of notice is not specified in the lease, MMHA requires at least one full month notice be provided to the owner. The contract will terminate the last day of the month of the notice to allow owners a full month's notice of the termination. MMHA may provide a courtesy notice to owners that the family intends to vacate the unit. This courtesy does not negate the family's responsibility to provide proper notice to owner to vacate the unit in accordance with the lease agreement.

#### **Mutual Termination (Rescission)**

Requests for mutual termination require owner certification of the reason for the request, which must not be tenant non-compliance with the lease or any non-compliance with program rules and/or regulations. This certification may be verified by the use of public records.

#### **Time of Contract Change**

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move. In a move, assistance stops at the old unit at the end of the month in which the tenant ceases to occupy the unit or upon effective date of termination of tenancy, unless the current unit is under abatement or approved by HCV Management. Assistance will start on the new unit on the first (1<sup>st</sup>) of the following month after the unit has been deemed affordable, rent reasonable and has passed HQS/NSPIRE inspection.

### **D. PORTABILITY [24 CFR 982.353]**

Portability applies to families moving out of or into MMHA's jurisdiction within the United States and its territories. MMHA prohibits more than one move (both within and outside of its jurisdiction) during any one-year period.

### **E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]**

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

#### **Restrictions on Portability**

**Applicants**- It is the policy of MMHA that an applicant is not eligible to port. They must complete one year of assistance and residency before they are eligible to port.

#### **Participants**

MMHA will not permit families to exercise portability:

- If the family is in violation of a family obligation.
- If the family owes money to MMHA.
- If the family has moved out of its assisted unit in violation of the lease.
- If the family is currently under eviction or has received a notice to terminate tenancy from their current landlord for a lease violation.
- If the family is under termination by MMHA for a program violation.

### **F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]**

#### **Absorption or Administration**

MMHA will accept a family with a valid voucher from another jurisdiction and will either administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by MMHA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for tenancy approval for an eligible unit to MMHA during the term of the MMHA voucher. MMHA may grant extensions in

accordance with this Administrative Plan. However, if the family decides not to lease-up in MMHA's jurisdiction, they must contact the initial PHA to request an extension. MMHA may absorb incoming portable families provided there is funding available. When MMHA does not absorb the incoming voucher, it will bill the initial PHA's voucher and MMHA's policies will prevail. For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program. MMHA does not require a re-determination of eligibility for a portable family that was already receiving assistance in the initial PHA Housing Choice Voucher tenant-based program, but can in case of any changes. MMHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, MMHA will change to the proper size based on its own Subsidy Standards.

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

As receiving PHA, MMHA will conduct a recertification interview but only verify missing information and information that is more than 120 days old. A change in the family's circumstances may also require updated verifications. If MMHA conducts a recertification of the family, it will not cause a delay in the issuance of a voucher. If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in MMHA's jurisdiction, MMHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

#### **Requests for Tenancy Approval**

A briefing will be mandatory for all porting families new to the voucher program. When the family submits a RFTA, it will be processed using MMHA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within thirty calendar days of the expiration date of the vendor by MMHA via HUD 52665 form.

If the family leases up successfully and MMHA administers the voucher, MMHA will notify the initial PHA and the billing process will commence. MMHA will notify the initial PHA if the family fails to submit a RFTA for an eligible unit within the term of the voucher. MMHA will send the 52665 form back to the initial PHA within 30 days after the expiration of the term of the voucher. If MMHA denies assistance to the family, MMHA will notify the family and the initial PHA. The family may request an informal hearing in writing within ten calendar days. MMHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside MMHA's jurisdiction under continued portability.

#### **Regular Program Functions**

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

- Annual reexaminations of family income and composition;
- Biennial inspection of the unit; and
- Interim examinations when requested or deemed necessary by MMHA.

#### **Terminations**

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

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

#### **Required Documents**

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

#### **Billing Procedures, If MMHA Administers the Voucher**

MMHA will bill the initial PHA monthly for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims, will be monthly unless requested otherwise by the initial PHA.

MMHA will bill 100% of the housing assistance payment, and the appropriate administrative fee (at the initial or receiving PHA's rate whichever is lower) for each "portability" voucher leased as of the first day of the month. MMHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify MMHA of changes in the administrative fee amount to be billed.



**CHAPTER 15**  
**CONTRACT TERMINATIONS**  
[24 CFR 982.311; 982.314]

**PHILOSOPHY**

To promote a quality housing program that promotes accountability on the part of assisted families and property owners.

**POLICY**

The Housing Assistance Payments (HAP) contract is the contract between the owner and MMHA which defines the responsibilities of both parties.

MMHA may terminate a HAP contract because of the owners and/or agent's action or failure to act in accordance with the terms of the Administrative Plan, program rules or the HAP Contract. MMHA will make available to owners/agents a written description of their obligations under the program, the grounds under which MMHA can deny, suspend or terminate assistance,

This chapter describes the circumstances under which the contract can be terminated by MMHA and the owner, and the policies and procedures for such terminations.

**A. CONTRACT TERMINATION [24 CFR 982.311]**

The contract between the owner and MMHA may be terminated by MMHA, or by the owner or tenant terminating the lease. No future subsidy payments on behalf of the family will be made by MMHA to the owner after the month in which the contract is terminated. The owner must reimburse MMHA for any subsidies paid by MMHA for any period after the contract termination date.

**Contract Termination Due to Moves from the Unit by the Participant**

If the family moves out of the unit, MMHA will not make any housing assistance payments to the owner for any month after the month that the family moves out.

**Contract Termination Due to Death of Participant Head-of-Household**

Death of the participant head-of-household will be treated as a move from the unit and a contract termination. If there are remaining members of the participant household remaining on the premises, MMHA will assess their eligibility for continued assistance. Upon the death of the participant head-of-household, the housing assistance payments to the owner will stop unless MMHA determines that the residual household members are eligible for assistance.

**Occupancy of Unit After Termination of the Housing Choice Voucher Assistance**

If the family continues to occupy the unit after the Housing Choice Voucher Program contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from MMHA.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit; if the 1<sup>st</sup> year of the lease has been completed.

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

Family termination of the lease must be in accordance with the terms of the lease agreement or local law that provides longer time periods or other additional protections for tenants. Under these new statutory provisions, the immediate successor in interest, which is the party gaining ownership through a foreclosure sale, becomes subject to the HAP contract, as also revised by statute, and there must be "good cause" other than vacating the property prior to sale in order to terminate the existing tenancy.

**C. TERMINATION OF THE CONTRACT BY MMHA [24 CFR 982.404(a), 982.452, 982.453, 982.454, 982.552(a)(3)]**

The term of the HAP Contract ends when the lease terminates, when MMHA terminates program assistance for the family, or when the owner has breached the HAP Contract. (See "Owner Disapproval and Restriction" chapter)

MMHA may also terminate the contract if:

- MMHA terminates assistance to the family.
- The family is required to move from a unit when the unit does not meet the HQS/NSPIRE space standards because of an increase in family size or a change in family composition.
- Funding is no longer available under the ACC.

- If the property owner or his representative has engaged in or threatened abusive or violent behavior toward a MMHA tenant or a member of the household.
- If the property owner or his representative has engaged in or threatened abusive or violent behavior toward MMHA personnel.
  - a) "Abusive or violent behavior towards MMHA personnel or its agents" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is used to insult, intimidate, or threaten may be cause for suspension, termination, denial or prosecution.
- Actual physical abuse or violence will always be cause for termination.
- If the family has requested a reasonable accommodation that the owner/landlord is unable to provide the family.
- If the family has requested a transfer under the federal Violence Against Women Act (VAWA).
- The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.
- MMHA reserves the right to suspend or terminate a contract based on an owner's current or past unsatisfactory performance with the HCV program.

**Notice of Termination**

When MMHA terminates the HAP Contract under the violation of HQS/NSPIRE space standards, MMHA will provide the owner and family written notice of termination of the contract, and the HAP Contract terminates at the end of the calendar month that follows the calendar month in which MMHA gives such notice to the owner.

**CHAPTER 16**  
**DENIAL OR TERMINATION OF ASSISTANCE**  
[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

**PHILOSOPHY**

To promote a quality housing program that promotes accountability on the part of assisted families and property owners.

**A. POLICY-Three Warning Agency Policy**

In order to handle the high volume of participants and paper flow, it is necessary for the Agency to set strict procedures regarding, but not limited to, these items:

- Missed appointments
- Late for appointments
- Not calling in advance to reschedule appointments
- Not bringing required documents
- Failure to bring all parties necessary for signature
- Failure to notify MMHA of changes as required, except for failures that may involve fraud and/or misrepresentations. These may cause immediate termination, without Warnings.

Our policy shall be to allow the tenant up to three violations within three years' year period of their participation in the program. We will issue two Warning letters, and the third violation will be Termination. MMHA may deny or terminate assistance for a family because of the family's action or failure to act in accordance with the terms of the Administrative Plan, program rules or the lease agreement between the HCV landlord and tenant. MMHA will provide families with a written description of the family obligations under the program, the grounds under which MMHA can deny or terminate assistance, and MMHA's informal hearing procedures.

This chapter describes when MMHA is required to deny or terminate assistance and MMHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP Contract.

**1. TERMINATION & PENALTY OVERVIEW**

**General**

1. For applicants, we deny assistance. For participants, we terminate assistance. Both are given a penalty period before they can re-apply for assistance and the application is accepted.
2. Violation of Drug/Criminal policies is a violation for all programs operated by MMHA.
3. Drug/Criminal/Non-Citizen violations are violations for any subsidized housing.

**Specific**

Major Violations Penalty – Not eligible until a 3 year penalty time has been served.

1. Owes money (until repaid in full, and after 3 years has passed) to MMHA or another housing provider.
2. Drug/Criminal
  - Violent Acts
  - Drug involvement, past 3 years
3. Corrupt Act
  - Unreported person living in the unit
  - Fraud
4. Eviction PH/Owner
  - Lease violation
5. Termination of Voucher

Minor Lease violation

- Minor Violations Penalty (1 year)
1. Procedural
    - Missed appointment
    - Lateness

- Incomplete documents
- 2. Family Obligations
  - Moving without notice
  - HQS/NSPIRE violation (1st time)
  - Misrepresentation (slight/unintentional)
  - Reporting changes
  - Failure to report

**B. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552,982.553] Form of Denial/Termination**

MMHA's Denial of assistance for applicants may include any or all of the following:

- Denying placement on MMHA's wait list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures
- Rescinding of voucher due to insufficient funding

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

- Refusing to enter into a HAP Contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP Contract
- Refusing to process or provide assistance under portability procedures termination of assistance due to insufficient funding

**Mandatory Denial and Termination [24 cfr 982.4(d), 982.522(b)]**

- MMHA may terminate assistance for participants if the family is under contract and 180 days have elapsed since MMHA's last housing assistance payment was made. (See "Contract section 8-4.)
- MMHA will permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.
- MMHA will deny admission to the program for applicants and terminate assistance for program participants if MMHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for MMHA's established standards.
- MMHA will deny admission to an applicant and terminate assistance for program participants if MMHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- MMHA will terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.
- MMHA will deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.
- MMHA will deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

**C. Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]**

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

- If any family member violates any family obligation under the program as listed in Section C of this chapter [24 CFR 982.551].



- If any family member has violated the family obligation under 24 CFR 982.551-953 not to engage in any drug-related criminal activity.
- If any family member has violated the family obligation under 24 CFR 982.551-953 not to engage in any violent criminal activity.
- If any member of the family has had their housing assistance terminated by or have been evicted from any federally assisted housing program within the last three (3) years.
- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- If the family is not in good standing under another MMHA housing program.
- If the family currently owes rent or other amounts to MMHA or to another PHA in connection with Housing Choice Voucher Program.
- MMHA at its discretion may offer the family the opportunity to enter into a repayment agreement. MMHA will prescribe the terms of the agreement. (See “Repayment Agreements” in Section A of Chapter 18.
- If the family has not reimbursed any PHA for amounts paid to an owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- If the family has engaged in or threatened abusive or violent behavior toward MMHA personnel. Abusive or violent behavior towards MMHA personnel or its agents” includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is used to insult, intimidate, or threaten may be cause for termination, denial or prosecution.
- Actual physical abuse or violence will always be cause for termination.
- If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents. See Section B of this chapter.
- If the family fails to remedy HQS/NSPIRE violations that are determined to be the responsibility of the family.

Refer to Chapter 3, “Eligibility for Admission”, Section F, “Other Criteria for Admission” for further information.

#### **D. Notice of Termination of Assistance**

In any instance where MMHA decides to terminate assistance to the family, MMHA must give the family written notice which states:

- The reason(s) for the proposed termination,
- The effective date of the proposed termination,
- The family’s right, if they disagree, to request an informal hearing to be held before assistance is terminated,
- The date by which a written request for an informal hearing must be received by MMHA.

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

MMHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

#### **Required Evidence**

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proven is more probable than not. The intent is not to prove criminal liability, but to establish that certain fact(s) occurred. Preponderance of evidence may not be determined by volume of evidence, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants. MMHA will pursue fact-finding efforts as needed to obtain credible evidence.

MMHA may terminate assistance for criminal activity by a household member under this section if MMHA has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

**Denial of Assistance for Sex Offenders**

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

MMHA may also deny admission or terminate assistance if any member of the household is deemed a State sex offender.

**Reasonable Accommodation**

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

**E. Violence Against Women Act**

The following provisions are applicable to situations involving actual or threatened domestic violence, dating violence, or stalking, as those terms are defined in Section 6(u)(3) of the United States Housing Act of 1937, as amended, (42 U.S.C. §1437d(u)(3)) and in the Violence Against Women Act (VAWA) Policy. To the extent any provision of this section shall vary from or contradict any other provision of this Administrative Plan, the provisions of this section shall prevail

**Termination of Tenancy**

An incident or incidents of actual or threatened domestic violence, dating violence, or sexual assault, or stalking shall not constitute a serious or repeated violation of the lease by the victim of such violence; and

Criminal activity directly relating to sexual assault, domestic violence, dating violence or stalking, engaged in by a member of the Tenant's household, a guest, or other person under the Tenant's control, shall not be cause for termination of participation or occupancy rights, if the Tenant or an affiliated individual of the Tenant is a victim of that domestic violence, dating violence, or stalking.

Notwithstanding anything to the contrary contained in paragraphs 1 and 2 above, MMHA may terminate Tenant's tenancy under this lease if it can demonstrate an actual and imminent threat that may result to other tenants or to those employed at or providing service to the property in which the unit is located, if the Tenant's tenancy is not terminated.

MMHA or the landlord may "bifurcate" a lease to evict a tenant who commits domestic violence while preserving the remaining member's tenancy rights. If the individual who is evicted is the sole tenant eligible to receive the housing assistance, the PHA or landlord must provide the remaining tenant an opportunity to establish eligibility or a reasonable time to move or establish eligibility for another covered housing program.

**Options for Documentation of VAWA:**

Self-Certification Form implemented through HUD Form 5066 vouchers.

Permits PHAs and owners to request certification via form approved by appropriate federal agency. This form must (1) state that the applicant or tenant is victim; (2) state that the incident is ground for protection meeting requirements under VAWA and (3) include perpetrator's name, if known and safe to provide.

**A.** Police, Court or Administrative Record- Record can be from a federal, state, tribal, territorial or local entity or administrative record.

**B.** Statement from Third Party- Can be from a victim service provider, medical professional, mental health professional or attorney. Must be signed by both the third party and the survivor under penalty of perjury.

## **Proving Domestic Violence: Conflicting Certifications**

In cases where two (2) household members claim to be the victim and name the other household member as the perpetrator, the housing provider can require third party documentation.

### **F. Administration**

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups. To the maximum extent possible, MMHA will involve other community and governmental entities in the promotion and enforcement of this policy.

### **Screening of Applicants**

In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, MMHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to all members of the household.

### **HUD Definitions**

- *Covered person*, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
- *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug
- *Guest*, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.
- *Other person under the tenant's control*, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.
- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **Standard for Violation**

- MMHA will deny participation in the program to applicants and terminate assistance to participants in cases where MMHA determines there is reasonable cause to believe that a household member or other person under the tenant's control is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where MMHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.
- "Engaged in or engaging in" violent criminal activity means any act within the past three years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, whether or not this resulted in the arrest and/or conviction of the applicant, participant, or household member.
  - The activity is being engaged in by any family member.

- The above-referenced behavior by any household member, regardless of the applicant or participant's knowledge of the behavior, shall be grounds for denial or termination of assistance.
- In evaluating evidence of negative past behavior, MMHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

**Drug Related and Violent Criminal Activity**

Ineligibility for Admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher Program for at least a three-year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, MMHA determines that the circumstances leading to eviction no longer exist because the criminal household member has died or vacated the household. Applicants will be denied assistance if they, or anyone who intends to reside in the household, have been arrested, convicted, or evicted from federally assisted housing for violent criminal activity within the last three years prior to the date of the eligibility interview.

**G. FAMILY OBLIGATIONS [24 CFR 982.551]**

1. The family must supply any information that MMHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.
2. The family must supply any information requested by MMHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS/NSPIRE breach caused by the family as described in 982.404(b).
6. The family must maintain utilities in the name of an adult household member.
7. The family must allow MMHA to inspect the unit at reasonable times and after reasonable notice.
8. The family may not commit any serious or repeated violations of the lease.
9. The family must notify the owner and, at the same time, notify MMHA before the family moves out of the unit or terminates the lease upon notice to the owner.
10. The family must promptly give MMHA a copy of any owner eviction notice. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11. The composition of the assisted family residing in the unit must be approved by MMHA. The family must promptly inform MMHA of the birth, adoption or court awarded custody of a child. The family must request MMHA approval to add any other family member as an occupant of the unit.
12. The family must promptly notify MMHA if any family member no longer resides in the unit or is temporarily away from the unit for more than 30 days.
13. If MMHA has given approval, a foster child or a Live-In Aide may reside in the unit. If the family does not request approval or MMHA approval is denied, the family may not allow a foster child or Live-In Aide to reside with the assisted family, each activity must be approved by owner.

14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family, and such activity must be approved by the landlord and compliant with local codes or ordinances.
15. The family must not sublease or let the unit.
16. The family must not assign the lease or transfer the unit.
17. The family must supply any information or certification requested by MMHA to verify that the family is living in the unit, or relating to family absence from the unit, including any MMHA-requested information or certification on the purposes of family absences. The family must cooperate with MMHA for this purpose. The family must promptly notify MMHA of absence from the unit.
18. The family must not own or have any interest in the unit.
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
20. The household members may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. An assisted family, or members of the family, may not receive Housing Choice Voucher Program tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

**Housing Authority Discretion** [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, MMHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. MMHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. MMHA may also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act. MMHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

**H. Enforcing Family Obligations**

**Explanations and Terms**

The term "promptly" when used with the family obligations always means "within ten calendar days." Denial or termination of assistance is always at the discretion of MMHA management except where this Plan or the regulations state otherwise.

HQS/NSPIRE Breach- The Inspector will determine if an HQS/NSPIRE breach as identified in 24 CFR 982.404(b) is the responsibility of the family. Families may be given extensions to cure HQS/NSPIRE breaches by the Director of Voucher program.

Lease Violations- The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- The number of occurrences of lease violations.
- If the owner evicts the tenant.
- If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations and MMHA concurs that the lease violations are serious and repetitive.
- If the owner notifies the family of intention to evict for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

- If there are police reports, neighborhood complaints or other third party information, that has been verified by MMHA.

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

### **Notification of Eviction**

If the family requests assistance to move and they did not notify MMHA of an eviction within three days of receiving the Notice of Lease Termination, the move will be denied.

### **Proposed Additions to the Family**

MMHA will deny a family's request to add additional family members who are:

- Persons who have unsatisfactory tenant history with MMHA's Asset Management program.
- Persons who have previously violated a family obligation listed in Section C of this chapter and 24 CFR 982.51 of the HUD regulations.
- Persons who have been part of a family whose assistance has been terminated under the Voucher program.
- Persons who have engaged in drug-related or violent criminal activity, within the last 3 years. Persons who do not meet MMHA's definition of family as defined in this Plan.
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to MMHA or to another PHA in connection with Housing Choice Voucher Program.
- Persons who have engaged in or threatened abusive or violent behavior toward MMHA personnel.

### **Family Member Moves Out**

Families are required to notify MMHA within 10 days in writing, if any family member leaves the assisted household. When the family notifies MMHA, they must furnish the following information:

- The date the family member moved out.
- The new address, if known, of the family member.
- A statement as to whether the family member is temporarily or permanently absent.

### **Limitation on Profit-Making Activity in Unit**

Families are required to report to MMHA and owner, in advance, their intention to use the unit for a business activity. If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation. If MMHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation. If MMHA determines the business is not legal, it will be considered a program violation.

## **I. Fraud**

### **a. PROCEDURES FOR NONCITIZENS [24 CFR 5.514, 5.516, 5.518]**

#### **Denial or Termination due to Ineligible Immigrant Status**

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. MMHA must offer the family an opportunity for a hearing.

(See "Eligibility for Admission" chapter, section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

#### **False or Incomplete Information**

When MMHA has clear, concrete, or substantial documentation (such as a student visa) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information. If the individual is unable to verify their citizenship/eligible immigrant status, MMHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status. MMHA will then verify eligibility status, deny,

terminate, or continue assistance as applicable. MMHA will deny or terminate assistance based on the submission of false information or misrepresentation.

**Procedure for Denial or Termination**

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with MMHA either after the INS appeal or in lieu of the INS appeal. After MMHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

**J. ZERO (\$0) HAP TENANCIES [24 CFR 982.455(a)]**

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the voucher will be terminated. If, within the 180-day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, MMHA will resume assistance payments for the family.

**K. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR 982.551, 982.552(c)]**

Providing the option to repay in the cases of misrepresentation is at the discretion of MMHA management. If the family has misrepresented any facts that caused MMHA to overpay assistance, MMHA may choose not to terminate and may offer to continue assistance provided that the family signs a repayment agreement and reimburses MMHA in accordance with the terms specified in the agreement.

**L. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551, 982.552(c)]**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, MMHA will deny or terminate assistance. This includes side deals, e.g., additional rent payments.

**M. TERMINATIONS OF PARTICIPANTS FOR INSUFFICIENT FUNDING [24 CFR 982.454]**

Federal regulations provide that a PHA may terminate HAP Contracts, in accordance with HUD requirements, if the PHA determines that funding under the Annual Contributions Contract is insufficient to support continued assistance for families in the program. Before terminating HAP Contracts on the basis of insufficient funding, the MMHA will ensure that it has carefully considered all cost- savings measures and the impact such terminations will likely have on program participants.

**N. CURRENTLY ASSISTED HCV FAMILIES**

If MMHA determines that it does not have sufficient funding to support continued assistance for families in the program, it will terminate the HAP contract for families excluding elderly and disabled households, contracts will be terminated until funding is sufficient to support continued assistance for the remaining families. MMHA will give both the families and owners no less than 60 days' advance notice of this action. Families whose contracts were terminated due to lack of funding will be eligible for assistance again as funds become available based on their admission date. Families with the earliest admission dates will be placed back on the wait list first. MMHA will add them to the HCV wait list even if the wait list is closed. Families must submit address changes in writing to ensure that they receive notices from MMHA. Families failing to do so will not be eligible for readmission to the program under this clause. Families will be readmitted to the HCV program in order based on their original admission date. Families with the earliest admission dates will be the first to be readmitted. MMHA will verify income eligibility and conduct a criminal background check for all adult household members before a new voucher is issued.

**CHAPTER 17**  
**OWNER DISAPPROVAL AND RESTRICTION**  
[24 CFR 982.54, 982.306, 982.4531]

**PHILOSOPHY**

If an owner has committed fraud or abuse or is guilty of serious contract violations or other gross unprofessional conduct, MMHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The owner does not have a right to participate in the program.

**POLICY**

MMHA will recruit owners to participate in the voucher program. MMHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of MMHA.

This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

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

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

MMHA may disapprove the owner for the following reasons:

- HUD or another government agency has informed MMHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed MMHA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.
- HUD has informed MMHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. MMHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability. In cases where the owner and tenant bear the same last name, MMHA may, at its discretion, require the family and/or owner to certify whether they are related to each other in any way.
- The owner has violated obligations under a housing assistance payments contract under Housing Choice Voucher Program of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
- The owner has engaged in criminal activity, drug-related criminal activity or any violent criminal activity.
  
- The owner has a history or practice of non-compliance with HQS, MMHA unit standards and/or neighborhood standards for units leased under the tenant-based program or leased under any other Federal housing program.
- The owner has a history or practice of renting units that fail to meet State or local housing codes.
- The owner has a history or practice of failing to terminate tenancy assisted under Housing Choice Voucher Program or any other federally assisted housing program, or to take lease enforcement action for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - Threatens the right to peaceful enjoyment by other residents or neighbors;
  - Threatens the health or safety of other residents, of employees of MMHA or its agents, or other persons engaged in management of the housing;
  - Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or drug-related criminal activity or violent criminal activity.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
- The owner has unsatisfactory performance in the HCV program.
- The owner has not paid State or local real estate taxes, fines or assessments.



**B. OWNER RESTRICTIONS AND PENALTIES**

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations or other gross unprofessional conduct, MMHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. MMHA may also terminate some or all contracts with the owner. Before imposing any penalty against an owner, MMHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations. See Program Integrity Addendum for guidance as to how owner fraud will be handled.

**C. CHANGE IN OWNERSHIP**

Change in ownership does not confer upon the subsequent owner the right of participation in the HCV program. The subsequent or "new" property owner must provide MMHA with an employer identification number or a social security number on IRS Form W-9 for reporting income to the IRS on Form 1099. The owner must provide a home telephone number and/or business number and email if applicable. The subsequent or "new" owner must adhere to program requirements. In addition, a change in ownership requires execution of a new contract and lease. MMHA may approve the assignment of the HAP Contract at the owner's request. MMHA may deny approval of assignment of the contract, for any of the reasons listed in Section A of this chapter. MMHA will process a change of ownership only upon the request of the new owner and only if accompanied by a copy of the deed or closing statements indicating transfer of ownership.

**Land Contracts**

In the case of land contracts, the HCV eligible titled property owner will continue to receive the housing assistance payments. The HCV eligible titled property owner may agree to allow the land contract vendor to receive the Housing Assistance payments as the property manager or agent for the HCV subsidized residence.

**Receivership**

A court appointed receiver does not obtain any greater right to receive housing assistance payments under the HAP contract than the property owner. The court appointed receiver must adhere to program requirements.

**CHAPTER 18**  
**OWNER OR FAMILY DEBTS TO MMHA**  
[24 CFR 982.552]

**PHILOSOPHY**

When families or owners owe money to MMHA, the agency will make every effort to collect the debt.

**POLICY**

It is MMHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support MMHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties. When a participant family owes money to MMHA, notice will be provided to the family and 30 days will be given for the family to either pay the debt in full or enter into a repayment agreement with MMHA. When an owner owes money to MMHA, MMHA will recoup any amounts owed from future HAP payments made to the owner. If the owner is no longer a participant with the HCV program, MMHA will use a variety of collection tools to recover debts which may include, but not limited to:

- Requests for lump sum payments Civil suits
- Obtaining a judgment against the owner and placing a lien against real estate property owned
- Payment agreements Abatements
- Reductions in HAP to owner Collection agencies
- Credit bureaus

MMHA may terminate assistance to a family for failing to pay a debt owed in full or enter into a repayment agreement within 30 days of notification of the monies owed. MMHA may terminate a HAP Contract with an owner for failure to repay monies owed to MMHA. MMHA reserves every right to modify this policy in the best interest of the assisted family. This chapter describes MMHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts.

**Applicant Families**

If any member of an applicant family has a bad debt or previous balance due to MMHA or any other federally assisted housing program, they are eligible to apply for the wait list. The family will be placed on the wait list and will be notified, in writing, of the outstanding debt. The family will be removed from the wait list.

**A. OWNER DEBTS TO MMHA [24 CFR 982.453(b)]**

If MMHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to, MMHA may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract. If future housing assistance or claim payments are insufficient to reclaim the amounts owed, MMHA will collect the debt and may use one of the following methods:

- Pursue collections through the court and/or a collection agency.
- Obtain a judgment against the owner and secure a lien against real estate property owned.
- Restrict the owner from future participation.
- MMHA may also refer an owner for prosecution for program fraud.

**CHAPTER 19**  
**COMPLAINTS AND APPEALS**

**PHILOSOPHY**

The informal hearing requirements defined in the HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of MMHA.

**POLICY**

MMHA will respond promptly within five (5) business days, when possible, to complaints from families, owners, employees, and members of the public in accordance with its complaint procedures. All complaints will be documented.

This chapter describes the policies, procedures and standards to be used when families disagree with a MMHA decision. The procedures and requirements are explained for informal reviews and hearings. It is MMHA's goal is to ensure that all families have the benefit of all protections due to them under the law.

**A. INFORMAL REVIEW PROCEDURES [24 CFR 982.54(d) (12), 982.554]**

Informal Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. When MMHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible,
- The procedure for requesting an informal review if the applicant does not agree with the decision, and
- The time limit for requesting an informal review.

If a review request is not received within those 10 days, the applicant family will be removed from the wait list without further notification.

MMHA must provide applicants with the opportunity for an informal review of decisions to:

- Deny issuance of a voucher Deny participation in the program
- Deny assistance under portability procedures

Informal reviews are not required for established policies and procedures and MMHA determinations.

A request for an informal review must be received in writing within 10 calendar days from the date of MMHA's notification of denial of assistance. The informal review will be scheduled within 30 calendar days of the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. The review may be conducted by:

- A MMHA staff person who is not directly involved in the decision to approve or deny
- An individual from outside MMHA and designated as a hearing officer.

The applicant will be given the option of presenting oral and/or written objections to the decision. Both MMHA and the family may present evidence and witnesses. The family may use one designee, e.g. an attorney or other representative, to assist them at their own expense.

A notice of the findings will be provided in writing to the applicant within 15 days after the review. It shall include the decision of the Hearing Officer, and an explanation of the decision.

All requests for an informal review, supporting documentation, and a copy of the final decision will be retained in the family's file.

**B. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]**

MMHA will give a participant family an opportunity for an informal hearing to consider whether the decision due to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and MMHA policies determination to terminate assistance for any reason.

During MMHA's hearing /informal review process, assistance to a family may not be terminated or denied while MMHA hearing decision is pending but assistance to an applicant may be delayed pending MMHA hearing.

### **Notification of Hearing**

It is MMHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, MMHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

An informal hearing shall be scheduled within 30 calendar days following receipt of a hearing request. Tenants are responsible for notifying MMHA in writing of any change of address pending the informal hearing. If the informal hearing notification is returned to MMHA without a forwarding address by the U.S. Postal Service and the tenant has not provided a forwarding address in writing to MMHA, the decision to reschedule a hearing is at the discretion of her director, or their designee. The notification of hearing will contain:

- The date and time of the hearing
- The location where the hearing will be held
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense
- The right to view any documents or evidence in the possession of MMHA upon which MMHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than five (5) business days from the date of its termination list.
- A notice to the family that MMHA requests a copy of any documents or evidence the family will use at the hearing.

### **MMHA's Hearing Procedures**

After a hearing date is set, the family may request to reschedule only upon showing "good cause" which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Families have the right to:

- Present written or oral objections to MMHA's determination.
- Examine the documents in the file which are the basis for MMHA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that MMHA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.
- In addition to other rights contained in this Chapter, MMHA has a right to:
- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have their attorney present; and
- Have staff persons and other witnesses familiar with the case present.
- The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of MMHA shall take effect and another hearing will not be granted. The Hearing Officer will determine whether the action, inaction or decision of MMHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to MMHA and the family within 10 business days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed;
- The date the decision goes into effect.

MMHA is not bound by hearing decisions which:

- Concern matters in which MMHA is not required to provide an opportunity for a hearing;
- Are contrary to HUD regulations or requirements;
- Are contrary to Federal, State or local laws; or
- Exceed the authority of the person conducting the hearing.

If MMHA determines it is not bound by a hearing decision, MMHA will notify the family of the determination, and the reason(s) for the determination.

**C. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NONCITIZENS" [24 CFR Parts 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while MMHA hearing is pending but assistance to an applicant may be delayed pending MMHA hearing.

**INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, MMHA notifies the applicant or participant within 10 business days of their right to appeal to the INS within 30 business days or to request an informal hearing with MMHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give MMHA a copy of the appeal and proof of mailing or MMHA may proceed to deny or terminate. The time period to request an appeal may be extended by MMHA for good cause.

The request for a MMHA hearing must be made within 10 calendar days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 10 calendar days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members MMHA will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, MMHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the noncitizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

**D. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]**

When applicants are denied placement on the wait list, or MMHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal hearing process.

**PROGRAM INTEGRITY ADDENDUM**  
[24 CFR 792.101 to 792.204, 982.54]

**PHILOSOPHY**

The U.S. Department of Housing and Urban Development (HUD) conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families either are totally ineligible or are receiving benefits that exceed their legal entitlement.

MMHA is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained.

**POLICY**

MMHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously. The agency will use reports from PIC/HIP to ensure program compliance.

This chapter outlines MMHA's policies for the prevention, detection, and investigation of program abuse and fraud.

**A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD**

Under no circumstances will MMHA undertake an inquiry or an audit of a participating family or property owner arbitrarily. MMHA's expectation is that participating families and property owners will comply with HUD requirements, provisions of the voucher, and other program rules. MMHA staff will make every effort (formally and informally) to orient and educate all clients in order to avoid unintentional violations. However, MMHA has a responsibility to HUD, the community, and eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to MMHA's attention, to investigate such claims.

MMHA will initiate an investigation of a participating family or property owner only in the event of one or more of the following circumstances:

- Referrals, Complaints, or Tips.** MMHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies or persons alleging that a family is in noncompliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file. Any written complaint that cannot be verified will be placed in the file.
- Internal File Review.** A follow-up will be made if MMHA staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review) information or facts that conflict with previous file data, MMHA's knowledge of the family, or statements made by the family.
- Verification of Documentation.** A follow-up will be made if MMHA receives independent verification or documentation that conflicts with representations in the family's file (such as public record information or reports from credit bureaus or other agencies).

**B. STEPS MMHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD**

MMHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants, participating families and property owners. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by MMHA clients.

**Things You Should Know (HUD-1140-OIG).** This program integrity bulletin (created by HUD's inspector general) will be furnished and explained to all applicants to promote understanding of program rules and to clarify MMHA's expectations for cooperation and compliance.

**Review and Explanation of Forms.** Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

**Use of Instructive Signs and Warnings.** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

**Participant Certification (Voucher).** Head or Co-head will be required to sign a participant certification form.

### **C. STEPS MMHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD**

MMHA staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families or program property owners.

**Quality Control File Reviews.** Prior to initial certification and at the completion of all subsequent recertifications, client files per Housing Specialist per month will be reviewed by MMHA staff. At a minimum, such reviews shall examine:

- Verification of all income and deductions
- Changes in reported Social Security numbers or dates of birth
- Authenticity of file documents
- Ratio between reported income and expenditures
- Consistency of signatures with previously signed file documents
- Dates and signatures on all documents

**Observation.** MMHA management and occupancy staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

#### **Observations will be documented in the family's file.**

**Public Record Bulletins.** These bulletins may be reviewed by management and staff.

**State Wage Data Record Keepers.** Inquiries to state wage and employment record- keeping agencies, as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

**Credit Bureau Inquiries.** Credit bureau inquiries may be made (using a release of information form as authorization for credit and other checks) in the following circumstances:

- At the time of final eligibility determination
- When an allegation is received by MMHA wherein unreported income sources are disclosed
- When a participant's expenditures exceed their reported income and no plausible explanation is given

### **D. MMHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD**

MMHA staff will encourage all participating families to report suspected abuse to the Housing Choice Voucher Program. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints, and tips will be carefully evaluated to determine whether they warrant follow-up. MMHA will not follow up on allegations that are vague or otherwise nonspecific. They will only review allegations that contain one or more independently verifiable facts.

**File Review.** An internal file review will be conducted to determine whether the subject of the allegation is a client of MMHA and, if so, whether or not the information reported has been previously disclosed by the family.

MMHA will then determine whether it is the most appropriate authority to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

**Conclusion of Preliminary Review.** If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, MMHA will initiate and investigation to determine if the allegation is true or false.

#### **E. OVERPAYMENTS TO OWNERS**

If an owner has been overpaid as a result of fraud, misrepresentation, or violation of the HAP Contract, MMHA may terminate the contract and arrange for restitution to MMHA and/or the family as appropriate.

MMHA will make every effort to recover any overpayments made as a result of owner fraud or abuse. Payments otherwise due to the owner may be debited in order to repay MMHA or the tenant, as applicable.

#### **F. HOW MMHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD**

If MMHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the HCV Director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, MMHA will use a release of information form as the written authorization from the program participant to authorize credit and other checks.

- **Verification of Credit.** In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.
- **Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
- **Neighbors/Witnesses.** Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to MMHA's review may be interviewed.
- **Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- **Public Records.** MMHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

#### **G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY MMHA**

Documents and other evidence obtained by MMHA during the course of an investigation will be considered "work product" and will be kept either in the participant's file or in a separate "work file." In either case, the participant's file or work file will be kept in a locked file cabinet. Such cases under review will be discussed only among MMHA staff who are involved in the process or have information that may assist in the investigation.

#### **H. CONCLUSION OF MMHA'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the HCV Director. It will then be determined whether the facts indicate that a violation has occurred.

#### **I. EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, MMHA will review the facts to determine:

- What type of violation has occurred (procedural noncompliance or fraud)?
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the family?
- Whether the family is eligible for continued occupancy.



## **J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED**

Once a program violation has been documented, MMHA will propose the most appropriate remedy based upon the type and severity of the violation.

### **Procedural Noncompliance**

This category applies when the family "fails to" observe a procedure or requirement of MMHA but does not misrepresent a material fact and there are no retroactive assistance payments owed by the family.

Examples of noncompliance violations are:

- Failure to appear at a prescheduled appointment
- Failure to return verification in the time period specified by MMHA Warning Notice to the Family. In such cases a notice containing the following will be sent to the family:
  - A description of the noncompliance and the procedure, policy, or obligation that was violated.
  - The date by which the violation must be corrected or the procedure complied with.
  - The action that will be taken by MMHA if the procedure or obligation is not complied with by the date specified by MMHA.
  - The consequences of noncompliance.

### **Procedural Noncompliance - Overpaid Assistance**

When the family owes money to MMHA for failure to report changes in income or assets, MMHA will issue a notice of overpayment of assistance. This notice will contain the following:

- A description of the violation and the date(s).
- The amount owed to MMHA.
- The number of days within which a response must be received.
- Acknowledgment of the family's right to disagree and to request an informal hearing along with instructions for requesting such a hearing.

Participant Fails to Comply with MMHA's Notice. If the Participant fails to comply with MMHA's notice and a family obligation has been violated, MMHA will initiate termination of assistance.

Participant Complies with MMHA's Notice. When a family complies with MMHA's notice, the staff person responsible will meet with him/her to explain and discuss the family obligation or program rule that was violated. The staff person notes to the file that compliance has been achieved.

### **Intentional Misrepresentations**

When a participant falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by MMHA, the agency will evaluate whether or not:

- The participant had knowledge that their actions were wrong.
- The participant willfully violated the family obligations or the law.

### **Knowledge**

This will be evaluated by determining whether the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, the briefing certificate, and the personal declaration are adequate to establish knowledge of wrongdoing.

### **Willful Intent**

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the participant of the misrepresentation
- Repetition of the misrepresentation

- Use of a false name or Social Security number
- Admissions of the illegal action or omission by the participant to others Omission of material facts known to the participant (e.g., employment of the participant or other household member)
- Falsification, forgery or altering of documents
- Uttering and certifying to statements at an interim (re)determination that are later independently verified to be false

#### **Dispositions of Cases Involving Misrepresentations**

In all cases of misrepresentations involving efforts to recover monies owed, MMHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

Criminal Prosecution. If MMHA has established criminal intent and the case meets the criteria for prosecution, MMHA may:

- Refer the case for legal action, notify HUD's regional inspector general for investigation (RIGI), and terminate rental assistance.

Administrative Remedies. MMHA will terminate assistance and may pursue restitution through civil litigation.