CALL AND NOTICE OF REGULAR MEETING AT 6:45 PM OF THE VALLEJO HOUSING AUTHORITY COUNCIL CHAMBERS 555 SANTA CLARA STREET, VALLEJO, CA

JUNE 28, 2022

CHAIR
Robert H. McConnell

MEMBERS:
Rozzana Verder-Aliga, Vice Chair
Cristina Arriola
Hakeem Brown
Pippin Dew
Mina Loera- Diaz
Katy Miessner
HelenMarie "Cookie" Gordon

COUNCIL CHAMBERS 555 Santa Clara Street, Vallejo, California

1. CALL TO ORDER

2. ROLL CALL

3. CONSENT CALENDAR AND APPROVAL OF AGENDA

A. **APPROVAL OF MINUTES**
Recommendation: Approve minutes for the special meeting of June 14, 2022
Contact: Dawn G. Abrahamson, MMC, Secretary (707) 648-4527
Dawn.Abrahamson@cityofvallejo.net

4. ACTION CALENDAR

NOTICE: Members of the public wishing to address the Housing Authority on Action Calendar Items are requested to submit a completed speaker card to the Secretary. Each speaker is limited to five minutes pursuant to Vallejo Municipal Code Section 2.02.420.

A. **ADOPT A RESOLUTION APPROVING REVISIONS TO THE ADMINISTRATIVE PLAN OF THE VALLEJO HOUSING AUTHORITY**
Recommendation: Adopt a resolution approving proposed changes to the Vallejo Housing Authority's Administrative Plan.
Contact: Shenessa Williams, Housing Specialist Supervisor (707) 649-7714
Shenessa.Williams@cityofvallejo.net
Jason Goltiao, Administrative Analyst I (707) 649-5417
Jason.Goltiao@cityofvallejo.net

5. ADJOURNMENT

Hybrid Options are available for members of the public to participate. To participate remotely:

https://ZoomRegular.CityofVallejo.net
Option to join by phone:
Dial (669) 900-6833
Enter Meeting ID: 914 0075 0676#
Press *9 to digitally raise your hand from the phone
For additional instructions on how to speak during public comment, please visit,
www.cityofvallejo.net/publiccomment

Dated: Thursday, June 23, 2022

Robert H. McConnell, Chair

I, Dawn Abrahamson, Secretary, do herby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo Housing Authority, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 10:00 a.m., Thursday, June 23, 2022.

Dated: Thursday, June 23, 2022

Dawn G. Abrahamson, City Clerk

Hybrid Options are available for members of the public to participate. To participate remotely:

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Press *9 to digitally raise your hand from the phone
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VALLEJO HOUSING AUTHORITY
SPECIAL MEETING MINUTES
JUNE 14, 2022

COUNCIL CHAMBERS
555 SANTA CLARA STREET, VALLEJO,
California

1. CALL TO ORDER

The meeting was called to order at 6:45 p.m.

2. ROLL CALL

Present: Chair McConnell, Vice Chair Verder-Aliga, Boardmembers Arriola, Dew, Loera-Diaz, and Miessner
Absent: Boardmembers Brown and Gordon
Staff present: Executive Director Malone, City Attorney Nebb and Secretary Abrahamson

3. CONSENT CALENDAR AND APPROVAL OF AGENDA

***Action*:** *Moved by Vice Chair Verder-Aliga and carried unanimously by members present, approval of the Agenda and the Consent Calendar (Absent – Brown and Gordon).*

A. APPROVAL OF MINUTES

Recommendation: Approve minutes from the April 12, 2022 special meeting
Contact: Dawn G. Abrahamson, MMC, Secretary (707) 648-4527
Dawn.Abrahamson@cityofvallejo.net
Action: *Approved minutes.*

4. ACTION CALENDAR

A. HOLD A PUBLIC HEARING CONCERNING THE FISCAL YEAR (FY) 2022-23 HOUSING AUTHORITY BUDGET AND ADOPT A RESOLUTION APPROVING THE FY 2022-23 HOUSING AUTHORITY BUDGET

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution (Attachment 1) approving the Vallejo Housing Authority (VHA) Budget for Fiscal Year (FY) 2022-23 (July 1, 2022 - June 30, 2023) as set forth in Attachment 2, and also shown as Exhibit 1 to Attachment 1.
Contact: Chari Barrera, Administrative Analyst II (707) 553-7204
chari.barrera@cityofvallejo.net

Administrative Analyst II Barrera reviewed the budget process, discussed proposed revenue and expenditures and provided an update on projects.

Staff responded to questions from Boardmembers.

Chair McConnell opened the public hearing. There being no speakers, the public hearing was closed.

Action: *Moved by Vice Chair Verder-Aliga and carried unanimously by members present to adopt Resolution No. 22-003 (Absent – Brown and Gordon).*

5. ADJOURNMENT

The meeting adjourned at 7:05 p.m.

_____
ROBERT H. MCCONNELL, CHAIR

ATTEST:

_____
DAWN G. ABRAHAMSON, SECRETARY

ACTION ITEM 4.A.

DATE: June 28, 2022
TO: Mayor and Members of the City Council
FROM: Gillian Hayes, Assistant City Manager
SUBJECT: **ADOPT A RESOLUTION APPROVING REVISIONS TO THE ADMINISTRATIVE PLAN OF THE VALLEJO HOUSING AUTHORITY**

RECOMMENDATION

Adopt a resolution approving proposed changes to the Vallejo Housing Authority's Administrative Plan.

REASONS FOR RECOMMENDATION

The Vallejo Housing Authority (VHA) has dedicated project-based vouchers to site-specific units which include supportive services for persons experiencing homelessness. To ensure compliance with U.S. Department of Housing and Urban Development regulations, staff has updated the VHA Administrative Plan to include policies regarding the waiting list for persons experiencing homelessness (Pages 4-10 and 17-25 of Attachment 2).

Additionally, under the Administrative Plan's Housing Quality Standards section, language has been included to add clarification about sanitary conditions for subsidized rental units.(Pages 8-7, 8-8, and 8-13 of Attachment 2). Under the Informal Reviews and Hearings Section, language regarding the ability to conduct Remote Informal Hearings has also been added to *16-III.C. Informal Hearings for Participants* (Page 16-10 of Attachment 2). Any revision to the Administrative Plan must be formally adopted by the VHA Board, (24 CFR Section 982.54).

BACKGROUND AND DISCUSSION

The U.S. Department of Housing and Urban Development (HUD) provides guidance on the way the federally-funded Housing Choice Voucher Program must be administered in the form of federal regulations. Some of these regulations allow Housing Authorities to establish their own policies in order to better work within local market conditions. Where Housing Authorities have this flexibility, HUD requires them to maintain an Administrative Plan that details how these policies will be addressed.

The VHA has recently focused efforts on reducing homelessness by allocating project-based vouchers to multifamily housing units. This ensures more affordable housing with supportive services and increases the utilization of the Housing Choice Voucher (HCV) Program. Staff is proposing to add language to the Administrative Plan that would provide guidance on the waiting list selection plan for persons and families experiencing homelessness to qualify for the project-based units.

There are two other additions: *8-I.G. Pest Management*, and *8-I.H Mold-Like Substances*. These additions expound upon sanitary conditions for all tenant-based and project-based subsidized dwelling units and possible solutions for remediation should they not meet HUD's Housing Quality Standards. The changes do not affect current practices as they relate to the services provided to HCV Program participants.

Language regarding the ability of the VHA to conduct Remote Informal Hearings has also been added to the Administrative Plan under *16-III.C.Informal Hearings for Participants* (Page 16-10 of Attachment 2).

Other edits have been included to update Section *11-I.D. Conducting Annual Reexaminations* (Page 11-4 of Attachment 2), HUD Public and Indian Housing Notice numbers (Pages 7-5 and 8-17 of Attachment 2), and more consistent formatting which is cosmetic in nature only.

On June 22, 2022, the Housing and Community Development Commission reviewed and recommended the approval of the revised VHA Administrative Plan.

FISCAL IMPACT

The estimated cost to revise the Administrative Plan is about $300. This cost will be paid from the existing budget of VHA's Admin Program Fund# 121.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

1.	Resolution Approving VHA Administrative Plan 2022
2.	VHA Administrative Plan 2022

CONTACT

Shenessa Williams, Housing Specialist Supervisor (707) 649-7714
Shenessa.Williams@cityofvallejo.net
Jason Goltiao, Administrative Analyst I (707) 649-5417
Jason.Goltiao@cityofvallejo.net

Approved as to form:

By: _____ for
Veronica Nebb, City Attorney

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF VALLEJO HOUSING AUTHORITY APPROVING REVISIONS TO THE ADMINISTRATIVE PLAN OF THE VALLEJO HOUSING AUTHORITY REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) requires that the Vallejo Housing Authority adopt and maintain an Administrative Plan for its HCV Program; and

WHEREAS, Said Administrative Plan is to establish policies for working within local rental markets; and

WHEREAS, the Vallejo Housing Authority has focused its efforts on reducing homelessness by allocating project-based HCV Program vouchers to multifamily housing units which ensures more affordable housing with supportive services and increases utilization of the voucher program; and

WHEREAS, staff is proposing revisions to the Administrative Plan that provide guidance on the waiting list selection plan as well as pest management and mold for the HCV Program.

WHEREAS, the proposed changes to the Administrative Plan do not affect current practices related to services provided to HCV Program participants.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Vallejo Housing Authority hereby approves the revised Administrative Plan as presented by staff.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Vallejo Housing Authority (VHA) receives its funding for the Housing Choice Voucher (HCV) program from the U.S. Department of Housing and Urban Development (HUD). The VHA is not a federal department or agency. A public housing agency (PHA), such as the VHA, is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The VHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The VHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

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

There are three parts to this chapter:

Part I: The Public Housing Agency. This part includes a description of the VHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE VHA

1-I.A. OVERVIEW

This part explains the origin of the VHA's creation and authorization, the general structure of the organization, and the relationship between the VHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE VHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Vallejo Housing Authority for the jurisdiction of the City of Vallejo.

The officials of the VHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the VHA conducts business, ensuring that policies are followed by VHA staff and ensuring that the VHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

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

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The principal staff member of the VHA is the executive director (ED), hired and appointed by the board of commissioners. The ED is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the VHA's staff in order to manage the day-to-day operations of the VHA. The ED is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the ED's duties include budgeting and financial planning for the agency.

In Vallejo, the ED is the City Manager. The City Manager typically delegates responsibilities to his/her designee, the Housing and Community Development Manager, in accordance with the By-Laws of the VHA, approved on February 1, 2000.

1-I.C. VHA MISSION

VHA Mission Statement

With honesty and integrity, we are a team genuinely committed to improving and developing the quality of life in Vallejo's diverse communities.

1-I.D. THE VHA'S PROGRAMS

The VHA's Administrative Plan is applicable to the operation of the Housing Choice Voucher program, including Veterans Affairs Supportive Housing (VASH) vouchers, project-based vouchers, homeownership vouchers, and the Family Self-Sufficiency program.

1-I.E. THE VHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the VHA is committed to providing excellent service to HCV program participants, owners, and to the community. The VHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- 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.

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- 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.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the VHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the VHA's support systems and a high level of commitment to our employees and their development.

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

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by HUD. The VHA is afforded choices in the operation of the program which are included in this Administrative Plan, a document approved by the board of commissioners of the VHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the VHA's jurisdiction and may also be eligible to move under portability to other jurisdictions.

When a family is determined to be eligible for the program and funding is available, the VHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the VHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The VHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

1-II.B. THE HCV PARTNERSHIPS

To administer the HCV program, the VHA enters into a contractual relationship with HUD through the Consolidated Annual Contributions Contract (ACC). The VHA also enters into contractual relationships with the assisted family through the Housing Choice Voucher, and the owner or landlord of the housing unit through the Housing Assistance Payments (HAP) contract.

For the HCV program to work and be successful, all parties involved – HUD, the VHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties

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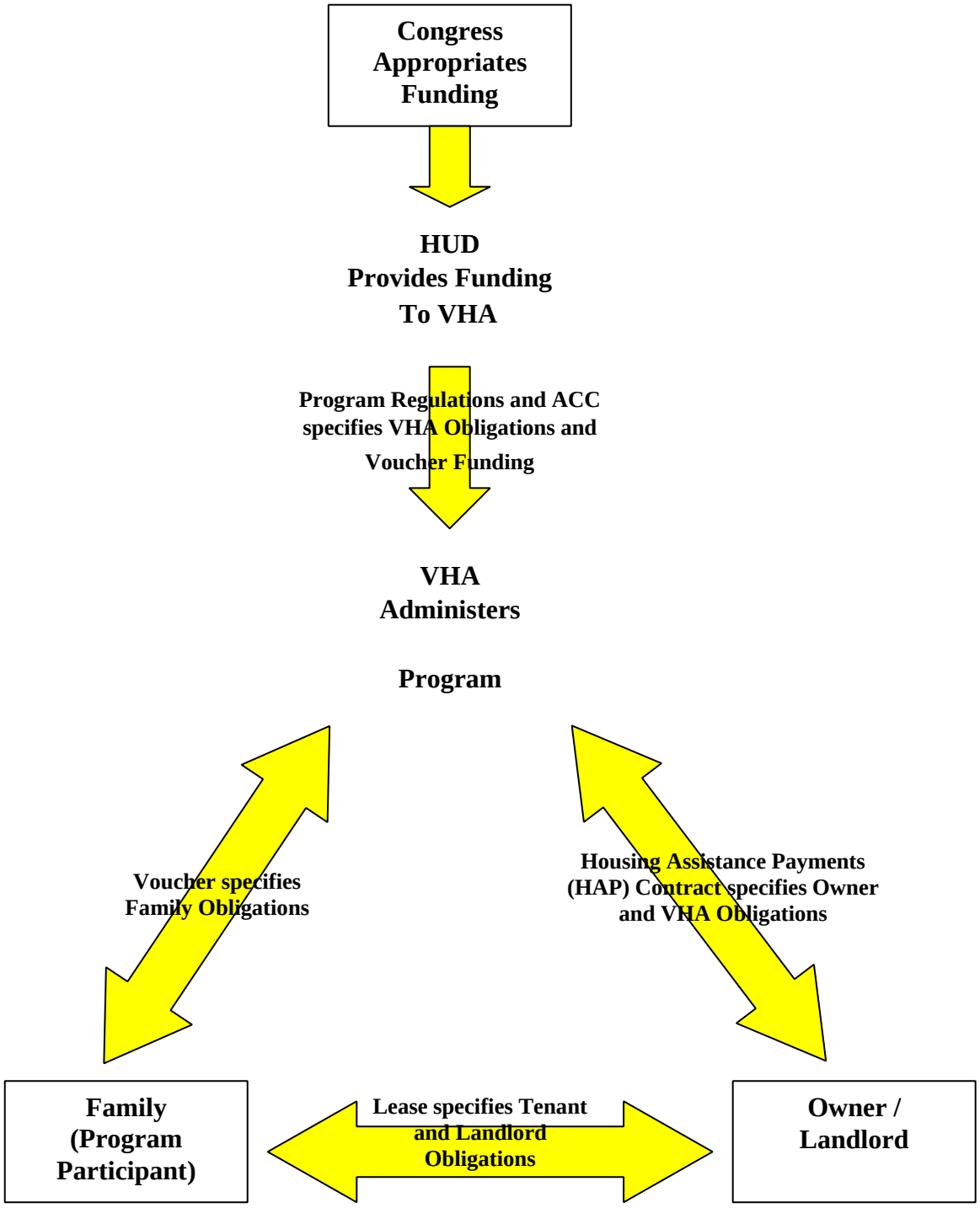
are defined in federal regulations and in legal documents that parties execute to participate in the program.

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

The HCV Relationships:



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What Does HUD Do?

HUD has the following major responsibilities:

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

What Does the VHA Do?

The VHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicants to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue vouchers to eligible families and provide information on how to lease a unit;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the VHA's Administrative Plan, and other applicable federal, state and local laws.

What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters; o The VHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
    - o The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, and

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whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract executed with the VHA;
- Comply with all applicable fair housing laws and not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

- Provide the VHA with complete and accurate information as determined by the VHA to be necessary for administration of the program;
- Make their best and most timely efforts to locate qualified and suitable housing;
- Attend all appointments scheduled by the VHA;
- Allow the VHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the VHA and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the VHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

1-II.C. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Non-discrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers

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- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

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PART III: THE HCV ADMINISTRATIVE PLAN

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

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

This Administrative Plan is set forth to define the VHA's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this Administrative Plan have been designed to ensure compliance with the consolidated ACC and all HUDapproved applications for program funding.

The VHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of VHA staff shall be in compliance with the VHA's personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the Administrative Plan. They are as follows:

- Selection and admission of applicants from the VHA waiting list, including any VHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the VHA waiting list (Chapter 4);
- Issuing or denying vouchers, including VHA policy governing the voucher term and any extensions or suspensions of the voucher term. "Suspension" means stopping the clock on the term of a family's voucher after the family submits a request for approval of a tenancy. If the
  VHA decides to allow extensions or suspensions of the voucher term, the VHA Administrative Plan must describe how the VHA determines whether to grant extensions or suspensions, and how the VHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the VHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);

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- Encouraging participation by owners of suitable units located outside areas of low-income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the VHA of amounts the family owes the VHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- VHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects Housing Authorities to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the VHA discretion. The VHA's Administrative Plan is the foundation of those policies and procedures. HUD’s directions require PHAs to

make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

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Creating policies based upon HUD guidance is not mandatory, but provides the VHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If the VHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

The Plan is organized to provide information to users in particular areas of operation.

1-III.D. UPDATING AND REVISING THE PLAN

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

The VHA will typically review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, VHA operations, or when needed to ensure staff consistency in operation.

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Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring Housing Authorities to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the Vallejo Housing Authority's (VHA) Housing Choice Voucher (HCV) operations.

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require Housing Authorities to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The VHA will comply fully with all applicable federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including, but not limited to:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)

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- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- California Fair Employment and Housing Act (FEHA – CA Government Code 12955)
- Ralph Act (CA Government Code 12920)
- Unruh Civil Rights Act (CA Civil Code 51)

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

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as VHA policies, can prohibit discrimination based on other factors.

The VHA will not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes"), or based on sexual orientation, gender identification or marital status [FR Notice 02/03/12].

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

The VHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the HCV program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program and is open to program applicants/participants and/or the general public

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- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class (an exception to this would be if the VHA received vouchers for a specific population – e.g. non-elderly disabled).

Providing Information to Families and Owners

The VHA will take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the VHA will provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the VHA or an owner, the family should advise the VHA. The VHA will make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the VHA will provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304]. Upon receipt of a housing discrimination complaint, the VHA is required to:

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

2-I.C. POLICY FOR GATHERING AND MAINTAINING DATA ON RACE AND ETHNICITY

HUD requires Housing Authorities to obtain racial and ethnic data on all applicant and participating families. The VHA will use HUD's required racial and ethnic categories.

Race and ethnicity data will be gathered when an applicant family completes an initial preapplication and when their name reaches the top of the waiting list. Participant families will be asked to provide race and ethnicity data during every annual recertification process.

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PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

The VHA will ensure that persons with disabilities have full access to the VHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the HCV program.

The VHA will inform all applicants and participants of the VHA's reasonable accommodation policies, in writing, on the waiting list application, reexamination documents, notices of adverse action by the VHA, and various other documents.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy practice, or service that allows a person with a disability to have equal access to the HCV program. A person with a disability may require certain types of accommodations in order to have equal access to the HCV program. The types of reasonable accommodations the VHA can provide include changes, exceptions, or adjustments to its rules, policies, practices, or services.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the VHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations. The VHA generally cannot make exceptions to HUD regulations, which require a regulatory waiver from HUD.

Types of Reasonable Accommodations

When needed, the VHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the VHA range) if the VHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with VHA staff
- Displaying posters and other housing information in locations throughout the VHA's office in such a manner as to be easily readable from a wheelchair

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2-II.C. REQUEST FOR AN ACCOMMODATION

It is the policy of the VHA that a request for a reasonable accommodation be made in writing. However, the VHA will consider an accommodation any time the family indicates that an accommodation is needed, whether or not a formal written request is submitted.

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

If the need for the accommodation is not readily apparent or known to the VHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

2-II.D. VERIFICATION OF DISABILITY

The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

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

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the VHA, the VHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the VHA will follow the verification policies provided in Chapter 7 of this Administrative Plan. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in this Plan. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The VHA will request only information that is necessary to evaluate the disability-related need for the accommodation. The VHA will not inquire about the nature or extent of any disability.

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- Medical records describing the nature of the disability will not be accepted or retained in the participant file.
- In the event that the VHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the VHA will dispose of it by shredding or other secured method of destruction. In place of the information, the VHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

In order for the VHA to approve a request for an accommodation, the following three conditions must be met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the VHA, or fundamentally alter the nature of the VHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the VHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

In cases where a family requests a separate bedroom for a family member with a disability, and a change in sleeping arrangements will enable the person with disabilities to have access to his/her own room within the VHA's subsidy standards, the VHA may approve the accommodation without issuing a larger-sized voucher.

When the request for a reasonable accommodation is for an extra bedroom for medical equipment, the VHA will conduct an inspection of the client's unit to determine if the request is reasonable and if it is necessary. This includes determining if there is sufficient space elsewhere in the unit that will accommodate the equipment without negatively impacting the client's disability. If a subsequent inspection of the unit reveals that the bedroom is being used for any purpose other than what was approved, the approval will be revoked and the payment standard reduced at the family's next annual reexamination [PIH Notice 2010-51].

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

After a request for an accommodation is received, the VHA will verify the need for the reasonable accommodation through a 3rd party. Upon receipt of the completed 3rd party

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verification form, the VHA will review the documents and respond in writing in a timely manner.

If the VHA 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 VHA's operations), the VHA will offer the family the opportunity for a review of the decision where the VHA and the family may discuss whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the VHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the VHA will notify the family, in writing, of its determination in a timely manner.

The need for the accommodation will be reviewed bi-annually at the family's annual recertification appointment. The VHA, at its discretion, may elect to waive the requirement of bi-annual recertification of need, or extend the period of time between recertifications, if the disability is of a permanent nature and the VHA has received verification from a physician or other knowledgeable source that the person's condition and need for the accommodation is unlikely to change.

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

The VHA will ensure that persons with disabilities related to hearing and vision have reasonable access to the VHA's programs and services [24 CFR 8.6].

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

The VHA will work with persons with hearing and vision impairments to ensure their accessibility needs are met. The VHA may use a variety of options to do this, including, but not limited to:

- TTD/TTY communication
- California Relay Service
- Large print or audio documents
- Having material explained orally by staff
- Having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The VHA will comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973

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- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The VHA's policies concerning physical accessibility will be readily available to applicants and participants. They can be found in three key documents:

- This Plan describes the key policies that govern the VHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The VHA's Agency Plan provides information about self-evaluation, needs assessment, and transition plans.

The VHA will ensure its offices will be readily accessible to and usable by persons with disabilities.

When issuing a voucher to a family that includes an individual with disabilities, the VHA will include a current list of available accessible units known to the VHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit as a reasonable accommodation to a person with disabilities. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

The VHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial will inform them of the VHA's informal review process and their right to request a review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination will inform them of the VHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the VHA will consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the VHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the VHA will make the accommodation.

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

2-III.A. OVERVIEW

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Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

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

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Administrative Plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

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

2-III.B. ORAL INTERPRETATION

The VHA will offer competent interpretation services free of charge, upon request, to the LEP person. The VHA will utilize a language line for telephone interpreter services unless the VHA has bilingual staff who speak the LEP person's primary language.

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

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

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the VHA. In general, the VHA will discourage the use of a family member or friend as an interpreter, especially if the person is a minor, but realizes it is ultimately the choice of the LEP person.

2-III.C. WRITTEN TRANSLATION

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

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

- The VHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the VHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

If the VHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not relieve the VHA of the underlying obligation to ensure meaningful access by LEP persons to the VHA's Housing Choice Voucher program and services.

If it is determined that the VHA serves very few LEP persons, and the VHA has very limited resources, the VHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. If the VHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the VHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the VHA's collection and use of family information as provided for in VHAprovided consent forms.
- The VHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the VHA.

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the VHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, disabled person, or any other single person;

  A group of persons residing together. Such a group includes, but is not limited to:

  - a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family)
  - two or more elderly and/or disabled persons living together o one or more elderly and/or disabled persons living with a live-in aide o a displaced family
  - the remaining member of a tenant family

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

A family also includes the following:

- Two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who can demonstrate that they lived together at the time the family became eligible to participate in the HCV program, or that they are now domestic partners, and any minor children in either person's custody
- An individual who was previously a part of the assisted family (unless the person was removed from the assisted family due to domestic violence, or if anyone in the assisted family has an active restraining order against the individual)
- A parent or child of the head of household, spouse, or co-head of household who is currently either elderly or disabled and the head of household, spouse, or co-head of household is essential to the person's care and/or well-being.

No other individuals will be considered or approved as a family member.

Each family must identify the individuals to be included in the family at the time of application, and must request VHA approval prior to allowing anyone else to be included in the family, unless it is through birth, adoption, or court-awarded custody.

Household

Household is a broader term that includes additional people who, with the VHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup [24 CFR 982.315]

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

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

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

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

In the absence of a judicial decision or an agreement among the original family members, the VHA will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the VHA will take into consideration the following factors, in order of priority:

- Which of the two new family units has the greatest amount of custody of the dependent children, or the greatest number of dependent children
- Whether either of the two new family units contains elderly or disabled family members
- The interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse
- Recommendations of medical and/or social service professionals
- Which family members remain in the unit
- Which family member was the head of household when the original application for housing assistance was submitted, or on any subsequent updates

Documentation of these factors is the responsibility of the two new family units. If either or both of the families do not provide the documentation within a reasonable amount of time as requested by the VHA, they generally will be denied continued placement on the waiting list or have the voucher assistance terminated for failure to supply information requested by the VHA. The VHA retains the discretion to make the decision based on the documentation already available to it.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If minor dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, the VHA will require

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verification that social services and/or the Juvenile Court has arranged for another care taker to be brought into the assisted unit to care for the child/children for an indefinite period. See Chapter 6 for the policy on “Caretakers for a Child.”

To be considered the remaining member of the tenant family, the individual must have been previously approved by the VHA to be living in the assisted unit and has been an approved household member living in the unit while it has been continuously assisted for at least 6 months.

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

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

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

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

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

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

3-I.E. SPOUSE, CO-HEAD OF HOUSEHOLD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

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

A *co-head of household* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A domestic partner or a minor emancipated under state law may be a co-head of household. A family can have only one co-head of household. A co-head of household never qualifies as a dependent. Foster adults and live-in aides cannot be a co-head of household.

Other adult means a family member, other than the head, spouse, or co-head of household, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

3-I.F. DEPENDENT [24 CFR 5.603]

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

Joint Custody of Dependents

Dependents who are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time (183 cumulative days per calendar year).

Only one applicant or assisted family may claim a dependent as a family member. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the VHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. For purposes of this Plan, an educational institution is defined as one with a degree or certificate program and meets the U.S. Department of Education's definition of an institute of higher education or the California Department of Education's definition of a school.

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head of household, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

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3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head of household is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities can be found in 24 CFR 5.403 and 24 CFR 8.3. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the VHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head of household is a person with disabilities as defined by the Social Security Act. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not qualify them as a disabled family and does not prevent the VHA from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, or from terminating assistance in accordance with the policies in Chapter 12.

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

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period. The VHA, *at its sole discretion,* may allow children of family members who are not part of the assisted family to stay with the assisted family in the capacity of guest(s) for extended periods of time if it is the only alternative to placing the child(ren) in foster care or in a group home. Such consideration may be given only when a government agency, such as CPS, places the child(ren) in the temporary custody of a member of the assisted family. In such cases, the VHA may allow the child(ren) to stay in the home as guests for more than 14 consecutive days or 30 cumulative days, if it will not violate HQS space standards.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time (at least 183 days per calendar year), are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 30 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

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3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations. For purposes of this Plan, a *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Foster children and foster adults who are living with an applicant or who have been approved by the VHA to live with a participant family are considered household members but not family members. Income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

Foster children and foster adults will only be permitted to be added to an assisted household with VHA approval and if it is expected to be a long-term fostering arrangement; emergency care will only be eligible if adding the foster child or adult will not increase the subsidy standards or violate HQS space standards, as no additional bedroom will be granted. The family must also provide the VHA with a copy of its current foster care license.

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a family member attends school away from home, the person will not be considered a family member. The person may be allowed to be added back into the household at a later date.

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

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

If a child has been placed in foster care, the VHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the

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child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Co-head of Household

An employed head, spouse, or co-head of household absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

The VHA will request verification of the family member's permanent absence from a responsible medical professional that the confinement is permanent. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the VHA will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

The VHA will approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

The income of a live-in aide is not included in the calculation of annual income for the family [24CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide cannot be considered a remaining member of a tenant family.

A family member will not be permitted to change status to that of a live-in aide, and a live-in aide will not be permitted to change status to that of a family member.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to VHA verification at every other annual reexamination.

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In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The VHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity;
- The person currently owes rent or other amounts to the VHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act; or
- The live-in aide is regularly away from the unit for extended periods of time and therefore unable to provide the care needed by the elderly, near-elderly, or disabled family member.

Upon receiving a request for a live-in aide, including all required documentation related to the request, the VHA will notify the family of its decision in writing in a timely manner.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

Definitions of the Income Limits [24 CFR 5.603(b)]

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. A family must meet the applicable income limits for their family size no later than 60 days prior to being issued a voucher. In order to be income eligible, an applicant family must be one of the following:

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- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4] or at the time they were issued a voucher by the VHA.
- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the VHA's program during the VHA's fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the VHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

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

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

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

Declaration [24 CFR 5.508]

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

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U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. Family members who declare citizenship or national status will not be required to provide additional documentation unless the VHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request an informal hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

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

As permitted by 24 CFR 5.512(b), the VHA will not provide assistance to a family before the verification of at least one family member.

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When the VHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be notified in writing in a timely manner.

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

Informal hearing procedures are contained in Chapter 16.

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

The VHA will verify the citizenship status of applicants at the time other eligibility factors are determined.

For new occupants joining an assisted family, the VHA will verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

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

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

Family members who do not contend eligible immigration status may later request, in writing, to have that status changed once they complete the immigration process and can provide verification of eligible status.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

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

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

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

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The VHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230; HCV GB, p. 5-13]

HUD requires each adult family member, and the head, spouse, or co-head of household, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The VHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with VHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

This does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents. **Definitions**

In determining whether and how the eligibility restrictions apply to a student, the VHA will rely on the following definitions [FR 4/10/06, p. 18148].

Dependent Child

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents. ***Independent Student***

The VHA will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

- The individual is of legal contract age under state law.

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- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.
    - To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:
        - Be at least 24 years old by December 31 of the award year for which aid is sought
        - Be an orphan or a ward of the court through the age of 18
        - Be a veteran of the U.S. Armed Forces
        - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
        - Be a graduate or professional student
        - Be married
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The VHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

The VHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education*.

Parents

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc).

Person with Disabilities

The VHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities.*

Veteran

A *veteran* is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the VHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the VHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents

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or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

If the VHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the VHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the VHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the VHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the VHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the VHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, the VHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The VHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the VHA will use the income limits for the jurisdiction in which the parents live.

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PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the VHA, and those in which denial of assistance is optional for the VHA.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for, or to provide assistance under, portability procedures

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

HUD rules prohibit denial of admission to the HCV program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the VHA's jurisdiction under portability. (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the VHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. As permitted by HUD regulations the VHA may admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the VHA is able to verify that the household member who engaged in the criminal activity has successfully completed a

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supervised drug rehabilitation program approved by the VHA, or the person who committed the crime is no longer living in the household.

- The VHA determines that any household member is currently engaged in the use of illegal drugs. For purposes of this Plan, c*urrently engaged in* is defined as any use of illegal drugs during the previous six months.
- The VHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

  In determining reasonable cause, the VHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. The VHA will also consider evidence from treatment providers or communitybased organizations providing services to household members.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits the VHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits the VHA to deny assistance if the VHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

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

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100]. For purposes of this Plan, gang-related activity is included in this definition.
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on

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behalf of the VHA (including a VHA employee or a VHA contractor, subcontractor, or agent).

- *Immediate vicinity* means within a three-block radius of the premises.
- Evidence of such criminal activity includes, but is not limited to:
  - Any conviction for drug-related or violent criminal activity within the past 5 years.
  - Records of arrests for drug-related or violent criminal activity within the past 5 years, although a record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
  - Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

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

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the VHA to deny assistance based on the family's previous behavior in assisted housing:

The VHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The VHA **will** deny assistance to an applicant family if:

- The family does not provide information that the VHA or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the VHA.
- Any family member has been evicted from federally-assisted housing in the last five years.
- Any Housing Authority has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any Housing Authority in connection with the HCV program or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any Housing Authority for amounts the Housing Authority paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

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- The family has breached the terms of a repayment agreement entered into with the VHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- A family member has engaged in or threatened violent or abusive behavior toward VHA personnel.

  Abusive or violent behavior towards VHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, slang or other language, written or oral, or profane gestures, which are customarily used to intimidate will be considered abusive or violent behavior.

  A family member that has engaged in violent behavior will be terminated.

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

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

3-III.D. SCREENING

Screening for Eligibility

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

The VHA will conduct a criminal background and registered sex offender check for every adult household member to determine initial eligibility, upon transferring into the VHA's jurisdiction under portability, when being added to an assisted household, or for cause.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the VHA will request additional information from the National Crime Information center (NCIC) and/or the Vallejo Police Department.

Housing Authorities are required to perform criminal background checks to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

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

If the VHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the VHA will notify the household of the proposed action and will provide the subject of the record and the applicant a copy of the record and an opportunity to

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dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant [24 CFR 982.307]

The VHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The VHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The VHA will inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

The VHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the family's current and prior address (as shown in VHA records) and the name and address (if known) of the owner at the family's current and prior addresses as required by HUD. The VHA will not provide any additional information to the owner, such as tenancy history or criminal history.

The VHA may not disclose to the owner any confidential information provided to the VHA by the family in response to a VHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

The VHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances [24 CFR 982.552(c)(2)]

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

The VHA may consider the following facts and circumstances prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act

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- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

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

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

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

  Whether criminal charges were filed
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity. Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

Removal of a Family Member's Name from the Application

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

For other criminal activity, the VHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)]. As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

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

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the VHA will typically notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

If the VHA determines that a family is not eligible for the program for any reason, the family will be notified promptly. The notice will describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the VHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the VHA to dispute the information within that 10 business day period, the VHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

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

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

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit Housing Authorities from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission."

Notification

VAWA 2013 expanded notification requirements to include the obligation for Housing Authorities to provide applicants who are denied assistance with a notice of rights and the form HUD-50066 at the time the applicant is denied.

The VHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the VHA's policies. Therefore, if the VHA makes a determination to deny assistance to an applicant family,

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the VHA will include in its notice of denial the VAWA information described later in this Plan as well as including a copy of the form HUD-50066. The VHA will request in writing that an applicant wishing to claim protection under VAWA notify the VHA within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, the VHA will request in writing that the applicant provide documentation supporting the claim in accordance with this Plan

Perpetrator Documentation

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

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

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

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Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the VHA with the information needed to determine the family's eligibility. HUD requires the VHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the VHA must select families from the waiting list in accordance with HUD requirements and VHA policies as stated in the Administrative Plan and the Annual Plan.

The VHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the VHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the VHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the VHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and VHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

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

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

Part III: Selection for HCV Assistance. This part describes the policies that guide the VHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the VHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the VHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the VHA's obligation to ensure the accessibility of the application

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process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the VHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the VHA. The VHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the VHA's application.

The VHA may use a one- or two-step application process. A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the VHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list. When the VHA provides public notice that it is accepting applications for housing assistance, a public notice will state how applications will be available, how and when applications will be accepted, and how the elderly, disabled, and LEP may obtain assistance in completing and submitting an application.

The VHA will not provide written confirmation of receipt of application, or provide a number on the waiting list or estimated wait time. Applicants can check their application status online.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The VHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard VHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The VHA will provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process will be fully accessible, or the VHA will provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the VHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

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

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4-I.D. PLACEMENT ON THE WAITING LIST

The VHA must review each complete application received and make a preliminary assessment of the family's eligibility. The VHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the VHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants. No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

Ineligible for Placement on the Waiting List

If the VHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the VHA will send written notification of the ineligibility determination in a timely manner. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list based on the date and time their complete application is received by the VHA, and according to any local preferences the VHA has adopted.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The VHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

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

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205] The VHA's HCV waiting list must be organized in such a manner as to allow the VHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

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

- Applicant name;
- Social Security number of the applicant;
- Current mailing address;

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- Family unit size and number of family members;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the VHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. The VHA will maintain a single waiting list for the HCV program and a separate waitlist for the Project Based Voucher Program. The Veterans Administration Supportive Housing (VASH) Voucher Assistance Program waitlist will be maintained by the Veterans Administration.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206] Closing the Waiting List

The VHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the VHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

The VHA will close the waiting list when it has enough applicants to use the housing assistance resources it has been allocated. Where the VHA has particular preferences or funding criteria that require a specific category of family, the VHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the VHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

The VHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The VHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- City of Vallejo Website and Vallejo Housing Authority Website
- Solano County Continuum of Care Providers
- Through public notices and advertisements in the Local or Public Notice Sections of
  newspapers that serve its jurisdiction;
- In appropriate foreign language publications, for Limited English Populations (LEP);
- On a recorded voice mailbox;

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- In VHA's office;
- Vallejo Community Based Organizations

The VHA will attempt to coordinate with a representative selection of social service agencies that serve disabled, elderly and LEP populations in order to ensure equal access for these populations. Through these agencies, applicants may be able to access translation services, assistance with completion of their application, and other specialized services.

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The VHA must conduct outreach as necessary to ensure that the VHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the VHA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the VHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

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

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

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

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

The VHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the VHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being under/overserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must immediately inform the VHA of changes in contact information, including current residence, mailing address, and phone number. An email address will not be considered a valid mailing address. The changes must be submitted in writing. Changes will not be accepted over the phone.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

An out-of-date waiting list can hamper a Housing Authority's efforts to process applicants efficiently when funding is available. To keep the waiting list current, the VHA is permitted to contact families on the waiting list periodically to reconfirm their interest, and to "purge" the list of families that are no longer interested, no longer eligible, or no longer reachable. HUD requires VHA to establish policies to use when removing applicant names from the waiting list An applicant's name will be removed from the waiting list for not responding to any of VHA's requests by the given due date. **Purging the Waiting List**

The waiting list will be updated as often as necessary, generally every other year, to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the VHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the VHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be submitted through a VHA-designated online application system (if available), or by mail or hand delivered if online submission is not available. Responses must be postmarked or received by the VHA on or before the due date indicated in the update request. Update requests postmarked or hand delivered after the due date will not be accepted.

If the family fails to respond by the due date and is not eligible for a reasonable accommodation, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family must respond within 10 business days from the date the letter was re-sent, or by the due date, whichever is later.

If a family is removed from the waiting list for failure to respond, the Housing and Community Development Manager, or his/her designee, may reinstate the family if it is determined that the lack of response was due to VHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

If at any time an applicant family is on the waiting list, the VHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list. If a family is removed from the waiting list because the VHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the VHA's decision (see Chapter 16) [24 CFR 982.201(f)].

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a VHA request for information or updates, and the VHA determines that the family did not respond

because of the family member's disability, the VHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

The VHA will remove an applicant from the waiting list if he/she has requested the removal in writing. In such cases no informal review is required.

If an applicant family is selected from the waiting list, the family does not have the ability to be bypassed, meaning that the family cannot request that the VHA leave them on the waiting list and select them again at a later date. If an applicant family reaches the top of the waiting list according to HUD regulations and the policies described in this Plan, the VHA must invite the family to participate in the eligibility process. If the family fails to attend the scheduled appointment to determine eligibility and does not reschedule for good cause, the family's application will be removed from the waiting list. No informal review is required.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

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

The VHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the VHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the VHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The VHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a VHA funding for a specified category of families on the waiting list. The VHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the VHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

The VHA administers the following types of targeted funding:

Veterans Affairs Supportive Housing (VASH)

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The VHA does not maintain a waiting list or apply preferences/priority for this program in accordance with Federal Register Vol.73, No. 88, May 6, 2008 (Docket No. FR-5213N-01), as participants are referred for assistance directly from the Veterans Administration.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

The VHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the VHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

The VHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the VHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the VHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

VHA Preferences

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list. Local Preference with the same points will be ranked by the raking point system and the date and time of application. VHA will use the following preferences:

Displaced Due to Natural Disaster

In the event of a catastrophic natural disaster, the VHA will provide HCV assistance to otherwise eligible families and/or individuals who reside in dwelling units within the city limits of the City of Vallejo that have been rendered uninhabitable by natural or fire-related disasters. HCV assistance will be made available to the extent that vouchers and funding subsidies are available. Families and individuals meeting the criteria may apply whether the VHA waiting list is open or closed, and may not be assigned a number as they would be assisted immediately, depending upon the availability of vouchers. (10 points)

For the purposes of determining if an applicant qualifies to apply for HCV assistance with this preference, the following disaster definition will apply: disaster being of a significant magnitude as to invoke emergency assistance; any multi-family building, or a minimum of four single-family homes, in which four or more households have been impacted by a single

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disaster and made uninhabitable. If fire-related, the fire may not have been caused by an applicant family.

Families or individuals requesting HCV assistance with this preference must 1) apply for assistance within 45 days of the disaster; 2) verify that at the time of the disaster they were the authorized "head of household" of the residence impacted by said disaster; 3) verify the uninhabitable condition of their immediate residence through official documentation, such as a report from one of the following local City or County departments: Vallejo Fire Department, Vallejo Building Department, Solano County Health Department, or other local, state or federal branch of government; 4) provide documented evidence that applicant has applied for and qualified for assistance through the Federal Emergency Management Agency (FEMA) and/or the American Red Cross; 5) meet all eligibility guidelines required by the VHA, including income eligibility, and the successful clearance of a Criminal and Lifetime Registered Sex Offender background check.

Participant of the Temporary Tenant-Based Rental Assistance Program

Applicant families who participated in the Temporary Tenant-Based Rental Assistance (TBRA) Program for persons experiencing homelessness that was administered by the City of Vallejo and substantially completed the required self-sufficiency component will be eligible for a preference on the waiting list. Families and individuals meeting the criteria may apply whether the VHA waiting list is open or closed.

In order to apply for the waiting list during a period when it is closed to the general population, the TBRA participant must submit an application to the VHA, and the VHA must receive it, within 45 days of the last day the applicant was assisted under TBRA. (10 points)

Local Resident

Applicant families who live within the city limits of Vallejo, or whose head, spouse or co-head of household works (verifiable, paid employment) or have been notified that they are hired to work within the city limits of Vallejo will be given preference on the waiting list. (15 points)

Adequate documentation to support this preference may include, but is not limited to, a current lease in the applicant's name, a utility bill, or mail of an official nature (personal letters, etc. will not be accepted). If the applicant is meeting the Local Resident preference through employment, the employment must be reported to all applicable sources (i.e. the IRS, CalWorks, etc.) to be eligible for this preference. If an applicant is on temporary disability from the job that is qualification for this preference, the applicant must still be employed by the company and eligible to return to work upon medical reinstatement. A Post Office Box address is not considered proof of Vallejo Residency.

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A family who claims to be homeless in Vallejo must provide verification of services received in Vallejo or any other business documentation that ties that person to Vallejo. Handwritten letters from friends, relatives or other private individuals will not be acceptable as proof of residence.

As permitted by HUD (see Section 4-II.C. of this Chapter), the VHA may choose to open its waiting list for categories of families that meet particular preferences. The VHA retains the right to open its waiting list for any length of time only to applicants who meet the Local Resident preference.

Lease In PlaceFamilies who qualify for the local resident preference and will be living in a unit where the landlord/ property owner will be willing to accept the HCV program.

The unit must be within the Vallejo City limits. The unit may not be owned by the applicant family nor any of their relatives as defined as: parents, siblings, grandparents of any member of the applicant family members as stated in 24 CFR 982.306(d). This must not be a sub-lease. (15 points)

Families qualifying for this preference MUST provide the following verification:

-Lease agreement between the applicant family and the landlord or owner

-Minimum of three months of utility bills in the name of the applicant family

-Certification from the landlord or property owner that they are willing to participant in the Housing Choice Voucher program with the current applicant family

Project Based Units for Homeless

A preference will be given to families who are homeless for units designated for homeless families under a project-based housing assistance payments contract. A homeless family is one that meets the HUD definition of homeless under 24 CFR 91.5. (10 points)

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the VHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, a VHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program who are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

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

Order of Selection

The VHA system of preferences may select families based on local preferences according to the date and time of application [24 CFR 982.207(c)]. If the VHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

When funding is available, families will be selected from the waiting list based on the selection preference(s) claimed or targeted funding, and in accordance with the VHA's hierarchy of preferences. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the VHA, subject to income targeting requirements.

All preferences claimed on the initial application or while the family is on the waiting list will be verified after the family is selected from the waiting list to determine eligibility.

Claim of a preference determines the family's placement on the waiting list. The qualification for the preference must exist on the date the applicant is originally selected from the wait list in order for the family to be considered eligible for the preference claimed. Applicants are not informed of this date prior to the eligibility intake appointment to prevent fraud. In the event an applicant requests to reschedule their appointment to determine eligibility, the qualification of the preference must exist as of the date of initial notification to the applicant by the VHA. Failure by an applicant to verify eligibility for a preference claimed will result in the family being returned to the waiting list without the preference and the application being reprioritized.

Documentation will be maintained by the VHA as to whether families on the waiting list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the VHA does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the VHA must notify the family [24 CFR 982.554(a)].

The VHA will notify the family by first class mail when it is selected from the waiting list. The VHA may also notify the family through the AssistanceConnect online system if the family is a participant of the system. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview

- All documents that must be provided at the interview, including information about what constitutes acceptable documentation and to verify eligibility for any preferences claimed
- Other documents and information that should be included with the application that should be brought to the interview

If a notification letter is returned to the VHA with no forwarding address, the family will be removed from the waiting list.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the VHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a VHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program. Failure to attend the interview will result in the family's application being removed from the waiting list.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the VHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for fifteen (15) days [Notice PIH 2012-10].

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability. A designee will be allowed to participate in the intake process, but only with permission of the person with a disability. All requests for reasonable accommodation must be made to VHA in writing.

Families selected from the waiting list are required to participate in an eligibility interview. The VHA utilizes the eligibility interview to discuss the application and verification process, to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is complete. The eligibility interview is also used as a vehicle to meet the informational needs of the family by providing information about other VHA services or programs which may be available.

All adult family members must be present at the interview. If any adult members are not present at the interview, the appointment will be rescheduled. Verification of information pertaining to adult members will not begin until signed release forms are returned to the VHA.

All adult family members must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the adult members do not provide the required documentation at the time of the interview, they will be required to provide it within 10 business days.

All adult members must also consent to a criminal background screening as detailed in Chapter 3 of this Plan.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the

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preference, VHA will proceed with the interview. If VHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to their updated preference ranking and date and time of application. Reasonable accommodation will be made for persons with a disability, if requested. An advocate, interpreter, or other assistant may assist the family with the eligibility interview. Eligibility interviews will be conducted in English. For limited English proficient (LEP) applicants, the VHA will provide translation services in accordance with the VHA's LEP policy; see Chapter 2 Fair Housing and Equal Opportunity.

It is the family's responsibility to reschedule the interview appointment for good cause prior to the appointment date. Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. Families will be allowed to reschedule the appointment only for good cause.

If the family does not attend the appointment, either the initial or any rescheduled appointment, and does not contact the VHA before the appointment date to reschedule (if applicable), the VHA will reject the application and drop the family from the waiting list without further written notification. If the family contacts the VHA within 5 business days of the scheduled appointment and can provide acceptable documentation to the VHA that an emergency situation prevented them from rescheduling or attending the appointment, the VHA may allow the family to reschedule the appointment. Requests to reschedule received on the same day of the appointment will be considered contact within 5 business days of the scheduled appointment and the family will be required to provide acceptable documentation to the VHA that an emergency situation prevented them from rescheduling prior to the appointment or from attending the appointment.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the VHA will provide the family with a written list of items that must be submitted within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). The family will be asked to sign their acknowledgement of receipt of the list. If any of the items are not submitted to the VHA by the date on the form and the family does not request an extension, the family's application will be considered incomplete and removed from the waiting list without further written notification.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP) applicants, the VHA will provide translation services in accordance with the VHA's LEP plan.

4-III.F. COMPLETING THE APPLICATION PROCESS

The VHA must verify all information provided by the family (see Chapter 7). Based on verified information, the VHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or

selection preference that affected the order in which the family was selected from the waiting list.

If the VHA determines that the family is ineligible, the VHA will send written notification of the ineligibility determination in a timely manner. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16). If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. local preference, targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The VHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the VHA determines that the family is eligible to receive assistance, the VHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

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Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the VHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the VHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the VHA's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and VHA policies related to these topics in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the VHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require the VHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the VHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5-I.B. BRIEFING [24 CFR 982.301]

The VHA will give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the VHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

The VHA will conduct briefings in group meetings. In-home briefings may be provided as a reasonable accommodation.

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The head of household is required to attend the briefing. If the head of household is unavailable to attend the briefing, with the head of household's written request, a spouse or co-head of household may attend in the head of household's place.

Families that attend group briefings and still need individual assistance will be referred to an appropriate VHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the VHA will provide translation services in accordance with the VHA's LEP plan (See Chapter 2).

Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing. A family may be contacted by telephone and offered the opportunity to come to a briefing if there would not be sufficient time to mail a letter.

If the notice of briefing is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. The VHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior VHA approval, will be denied assistance (see Chapter 3).

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the VHA's jurisdiction;
- An explanation of how portability works;
- How portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- The advantages of areas that do not have a high concentration of low-income families; and

Briefing Packet [24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, voucher suspensions, and the VHA's policies on any extensions of the term. If the VHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the VHA determines the payment standard for a family, how the VHA

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determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.

- An explanation of how the VHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the VHA policy on providing information about families to prospective owners.
- The VHA subsidy standards including when and when exceptions may be made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords known to the VHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the VHA that may assist the family in locating a unit, especially outside of areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the VHA.
- The family obligations under the program.
- The grounds on which the VHA may terminate assistance for a participant family because of family action or failure to act.
- VHA informal hearing procedures including when the VHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.

If the VHA is located in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services

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- An explanation of how portability works, including a list of portability contact persons for neighboring Housing Authorities with names, addresses, and telephone numbers

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, the VHA may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2010-19].

The VHA will provide the following additional materials in the briefing packet:

- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*
- Information on how to fill out and file a housing discrimination complaint form
- Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-IX.C)
- "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the Housing Choice Voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The VHA must inform families of these obligations during the oral briefing, and the same information will be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the HCV program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the VHA of a change, notifying the VHA of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the VHA, the notice must be in writing, using VHA supplied forms. All forms are available in the VHA lobby, and also online by clicking on the following link:

http://www.cityofvallejo.net/city_hall/city_government/vallejo_housing_authority/vallejo_housing_authority_document_library/?portalId=13506&pageId=33030&objectId.2896=33399&contextId.2896=33031&parentId.2896=33032

Participant families may also report changes through any electronic systems the VHA uses for reporting purposes. Changes will not be accepted by telephone.

Family Obligations [24 CFR 982.551]

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The family obligations of the voucher are listed as follows:

- The family must supply any information that the VHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the VHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered damages which could be assessed against the security deposit. Damages caused by HCV participants in excess of the security deposit may lead to termination of assistance.
- The family must allow the VHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  The VHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, any of the following: a courtordered eviction; an owner's notice to evict; police reports; or affidavits from the owner, neighbors, or other credible parties with direct knowledge.

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was through no fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- The family must notify the VHA and the owner before moving out of the unit or terminating the lease.
- The family must comply with lease requirements regarding written notice to the owner.
- The family must provide written notice to the VHA at the same time the owner is notified. The family must promptly give the VHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the VHA. The family must promptly notify the VHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request VHA approval to add any other family member

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as an occupant of the unit prior to allowing the individual to move in to the unit. Failure to do so may result in termination of the family's voucher assistance.

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The VHA will determine eligibility of the new member in accordance with the policies in Chapter 3. Only the following will be considered:

- The child of an existing family member through birth, adoption, or court-awarded custody
- A parent or child of the head of household, spouse, or co-head of household who is currently either elderly or disabled and the head of household, spouse, or cohead of household is essential to the person's care and/or well-being
- A spouse/domestic partner of the head of household, and any minor children in the person's custody. If a domestic partner, the head of household must designate that person as co-head of household in order to add him/her to the assisted family;
- An individual who was previously a part of the assisted family, unless the person was removed from the assisted family due to committing an act of domestic violence, or if anyone in the assisted family has an active restraining order against the individual
- Foster children/adults only if it is expected to be a long-term fostering arrangement; emergency care will only be eligible if adding the foster child or adult will not increase the subsidy standards or violate HQS space standards, as no additional bedroom will be granted
- A live-in aide (and the aide's dependent children);
- The VHA, *at its sole discretion*, may allow dependent children of relatives who are not part of the assisted family to reside with the assisted household in the capacity of guest(s). Consideration may be given in the case of a government agency, such as CPS, placing the child(ren) in the temporary custody of a member

  of the assisted household as the only alternative to placing the child(ren) in foster care or a group home. (See Chapter 3-I.J. Guests) The child(ren) will not be added as a family member unless the family provides verification that they are actively seeking permanent custody of the child(ren).
- The family must promptly (within 30 days) notify the VHA in writing if any family member no longer lives in the unit.
- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not a VHA-approved family member.
- The family must supply any information requested by the VHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the VHA when the family is absent from the unit.

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the VHA at the start of the extended absence.

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- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and VHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and VHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the VHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

The VHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The VHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the VHA determines the appropriate number of bedrooms under the VHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the VHA determines family unit size:

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- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the VHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the VHA subsidy standards.

The VHA will determine the appropriate number of bedrooms in a way that will not require the head of household to share a bedroom with a minor child. All other family members will be assigned bedrooms based upon one bedroom for each two persons regardless of the age or gender/gender identity of the individuals, except in the following circumstances:

- Live-in aides will be allocated a separate bedroom.
- Single person families will be allocated one bedroom.
- Foster youth under the age of 18 will not be required to share a bedroom with another child of the opposite gender/gender identity under the age of 18 unless both children are under the age of five. Foster youth under the age of 18 will not be required to share a bedroom with any adult member in the household.

The VHA will reference the following chart in determining the appropriate voucher size to be issued to a family:

Voucher Size	**Persons in Household (Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	5-10

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The family may choose a unit with fewer bedrooms than listed on their voucher. The VHA will not deny the unit as long as it does not result in overcrowding.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the VHA may grant an exception to its established subsidy standards if the VHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment. The VHA will verify that the equipment cannot be accommodated elsewhere in the unit.
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

The VHA will consider granting an exception for any of the reasons specified in the regulation: health or disability. The family may request a larger size voucher than indicated by the VHA's subsidy standards if necessary as a reasonable accommodation for a family member who is a person with disabilities. The family should request any exception to the subsidy standards in writing using the required VHA form. The request must explain the nexus between the disability and the need for a larger family unit size, and must include appropriate documentation. Requests must be verified by a knowledgeable professional source (e.g., doctor or healthcare professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at every other annual reexamination. The VHA will verify at the regularly scheduled inspection that the additional bedroom is being used for the authorized purpose. If it is not, the VHA will not continue to approve the additional bedroom and will reduce the family's subsidy standard as permitted by regulation.

The VHA will notify the family of its determination in a timely manner after receiving the family's request or confirmation of the documented need for reasonable accommodation from a qualified third party professional source. If a participant family's request is denied, the notice will inform the family of their right to request a review of the decision.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the VHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the VHA has determined the family

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to be eligible for the program, and that the VHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the VHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the VHA's Housing Choice Voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the VHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The VHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the VHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

If the VHA determines that there is insufficient funding after a voucher has been issued, the VHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM AND EXTENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher will be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the VHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The VHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted.

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Discretionary policies related to extension and expiration of search time must be described in the VHA's administrative plan [24 CFR 982.54].

The VHA may grant one additional 30-day extension if it is necessary due to reasons beyond the family's control, as determined by the VHA. Following is a list of extenuating circumstances that the VHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family
- Other family emergency
- Obstacles due to employment
- Whether the family has already submitted requests for tenancy approval that were not approved by the VHA
- Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) the extension is necessary. The VHA may require the family to provide documentation to support the request or obtain verification from a qualified third party. All requests for extensions to the voucher term must be made in writing and submitted to the VHA prior to the expiration date of the voucher, including any extensions. Requests for extensions after the voucher has expired will not be considered.

If the rental market in the VHA's jurisdiction drops below a 3% vacancy rate (as determined by the VHA), the VHA may, at its sole discretion, increase the maximum search time to 180 days. The family must demonstrate its due diligence in trying to locate a unit was met by providing the VHA a listing of all units looked at and all contacts with landlords made.

The VHA will approve an additional extension of 60 days (for a possible search period of 180 days, if the vacancy rate drops below 3% as determined by VHA). If a request for an extension in search time is made as a reasonable accommodation for a disability, and the request is determined to be reasonable under applicable laws by the VHA, additional time will be granted.

The family will be notified in writing of the VHA's decision to approve or deny an extension within 10 business days. The VHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

Suspensions of Voucher Term [24 CFR 982.303(c)]

The VHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for VHA approval of the tenancy until the date the VHA notifies the family whether the request has been approved or denied.

Expiration of Voucher Term

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the HCV program. If the family still wishes to receive assistance, the VHA will require that the family reapply for the waiting list the when it is open.

If a currently assisted family's voucher expires before the family has submitted a Request for Tenancy Approval (RTA), the family may remain in its current unit with continued voucher assistance with VHA and owner approval.

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Chapter 6

INCOME AND SUBSIDY DETERMINATIONS [24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the VHA's subsidy. The VHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and VHA policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and VHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the VHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and VHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and VHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining VHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

> 5.609 Annual income.
>
> (a) Annual income means all amounts, monetary or not, which:
>
> (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
>
> (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
>
> (3) Which are not specifically excluded in paragraph [5.609(c)].
>
> (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. These regulations are the basis for the policies in this Plan.

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes

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of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head of household Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head of household)	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less will be considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days will be considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below. The family is required to report any change in household composition within 10 days.

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Absent Students

When someone who has been considered a family member attends school away from home, the person will not be considered a family member and the Voucher size will be reduced in accordance with the VHA's subsidy standards and HUD regulations.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

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

Absent Head, Spouse, or Co-head of Household

An employed head, spouse, or co-head of household absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member and income will be included. Per HUD regulations, if the head of household is the only member of the family, then the head may not be absent more than 180 days without the HAP contract terminating.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

If any family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, the VHA will verify through a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a facility, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent.

If the reliable qualified source cannot provide a determination, the person generally will be considered temporarily absent unless more than 180 days have passed. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

If the family qualifies for a medical expense deduction and the head, spouse or co-head of household is determined permanently absent, the family will no longer be eligible for the deduction unless there is a remaining head, spouse or co-head is also over 62 years of age or a person with disabilities.

Joint Custody of Dependents

Dependents who are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time (183 cumulative days during the calendar year).

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Only one household may claim a household member/dependent. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the VHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

The approval of a caretaker is at the owner and the VHA's discretion and subject to the owner and the VHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the VHA will take the following actions.

(1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days have elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the VHA will extend the caretaker's status as an eligible visitor.

(3) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

(4) At any time that custody or guardianship legally has been awarded to a caretaker, the voucher will be transferred to the caretaker. The caretaker, as the new head of household, will be required to meet new family member eligibility requirements, not including initial income eligibility.

6-I.C. ANTICIPATING ANNUAL INCOME

The VHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The VHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the VHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The VHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

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Housing Authorities are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows Housing Authorities to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the VHA does not determine it is necessary to obtain additional thirdparty data.

When EIV is obtained and the family does not dispute the EIV employer data, the VHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the VHA will make every effort to obtain at least 3 current and consecutive pay stubs dated within the last 60 days.

The VHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available
- If the family disputes the accuracy of the EIV employer data
- If the VHA determines additional information is needed

In such cases, the VHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the VHA annualized projected income.

When the VHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the VHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

The VHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income when income changes frequently and no Interim Reexaminations will be conducted.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the VHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the VHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

> **Example:** An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case the VHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the VHA will calculate annual income using current circumstances and then require an interim reexamination when the

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change actually occurs. This requirement will be imposed even if the VHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

Projecting Income

The VHA will not use EIV quarterly wages to project annual income.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

For persons who regularly receive bonuses or commissions, the VHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a oneyear history is available, the VHA will use the prior year amounts. In either case the family may provide, and the VHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the VHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

For purposes of this Plan, sporadic is defined as temporary, nonrecurring income, including gifts, coming from 2 or more sources in which the total of all sources is $1,000 per year or less.

Temporary income is defined as lasting no longer than one month and totaling less than $1,000. Nonrecurring income is defined as occurring only once or twice a year and totaling less than $1,000.

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Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of $480 for each full-time student 18 years old or older (except for the head, spouse, or co-head of household) are not counted [24 CFR 5.609(c)(11)]. To be considered "fulltime," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

The VHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-thejob training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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The VHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the VHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the VHA's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A

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selfsufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID. While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Participants qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below which requires a maximum lifetime disallowance period of up to 48 consecutive months. Participants qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method" which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Original Calculation Method

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time

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eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the VHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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

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

During the 48-month eligibility period, the VHA will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her pre-qualifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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

Revised Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, the VHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

During the second 12-month exclusion period, the VHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the

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24month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

To determine business expenses that may be deducted from gross income, the VHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the VHA to deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the VHA to deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the VHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the VHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

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Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the VHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3); 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the VHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the VHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

This section begins with a discussion of general policies related to assets and then provides HUD rules and VHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

The VHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the VHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the VHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the VHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the VHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires the VHA to make a distinction between an asset's market value and its cash value.

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- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the VHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of $5,000, the VHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the VHA.

The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the VHA to establish a passbook rate within 0.75 percent of a national average.

The VHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

The VHA will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The VHA will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current VHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Changes to the passbook rate will take effect on February 1 following the December review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the VHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market

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value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access." If an asset is owned by more than one person and any family member has unrestricted access to the asset, the VHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the VHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the VHA will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the VHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HVC Guidebook* permits the VHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

The VHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s). If the family does not request an interim reexamination, the value will be deleted from the family's assets at the next annual reexamination.

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or

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tenant receives important consideration not measurable in dollar terms. All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received.

In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The VHA may verify the value of the assets disposed of if other information available to the VHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

In determining the value of a checking account, the VHA will use the average monthly balance for the last six months. If not available, the VHA will use the average balance listed on the most recent available bank statement.

In determining the value of a savings account, the VHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the VHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the VHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate

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(market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the VHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

In determining the equity, the VHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The VHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the VHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The VHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

For the purposes of calculating expenses to convert to cash for real property, the VHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the VHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR

5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the VHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 526], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

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Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

In determining the value of personal property held as an investment, the VHA will use the family's estimate of the value. The VHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

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When a delayed-start payment is received and reported during the period in which the VHA is processing an annual reexamination, the VHA will adjust the family share and VHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the VHA.

Lump-sum payments from Social Security or SSI are excluded from income, but any amount remaining at the time of the Annual Reexamination will be considered an asset.

Treatment of Overpayment Deductions from Social Security Benefits

The VHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the VHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

  The VHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 518].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].

- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

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Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The VHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the VHA must include in annual income "imputed" welfare income. The VHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or

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exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The VHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

The VHA will count court-awarded amounts for alimony and child support unless the VHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The VHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the VHA. For contributions that may vary from month to month (e.g., utility payments), the VHA will include an average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9); Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance <u>Included</u> in Annual Income [24 CFR 5.609(b)(9); FR 4/10/06; Notice PIH 2015-21]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

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- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the VHA will use the definitions of *dependent child, institution of higher education,* and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
    - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
    - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other nonfixed-sum charges.

Student Financial Assistance <u>Excluded</u> from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

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- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

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(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of

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financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require Housing Authorities to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [VHA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

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This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

Generally, the VHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the VHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the VHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The VHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head of household who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head of household, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head of household, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead of household is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502

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Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and inhome nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or co-head of household is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the VHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work (who may be the person with disabilities), (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)]. The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24

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CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the VHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the VHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the VHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

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Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

The VHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the VHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the VHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the VHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed

the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed). In evaluating the family's request, the VHA will consider factors such as how the schedule for the

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claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the VHA.

Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)]. The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The VHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the VHA generally will limit allowable child care expenses to the earned income of the lowest-paid member.

Eligible Child Care Expenses

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The type of care to be provided is determined by the assisted family. The VHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the VHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. To establish the reasonableness of child care costs, the VHA will use the schedule of child care costs from the local welfare agency, if available. If one is not available, the VHA may survey local child care providers and determine an average cost. Families may present, and the VHA will consider, justification for costs that exceed typical costs in the area.

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PART III: CALCULATING FAMILY SHARE AND VHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent between $0 and $50 that is established by the VHA

The VHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the VHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the VHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6III.C.)

VHA Subsidy [24 CFR 982.505(b)]

The VHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the VHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the VHA to pay the reimbursement to the family or directly to the utility provider.

The VHA will make utility reimbursements to the utility provider on a monthly basis.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

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Overview

If the VHA establishes a minimum rent greater than zero, the VHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the VHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

  A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

  For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- The family would be evicted because it is unable to pay the minimum rent.

  For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- Family income has decreased because of changed family circumstances, including the loss of employment.

- A death has occurred in the family.

  In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- The family has experienced other circumstances determined by the VHA.

The VHA's additional hardship criteria may include: a family's increased expenses due to changed circumstances, for medical costs, childcare, transportation, education, or similar items.

Implementation of Hardship Exemption

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Determination of Hardship

When a family requests a financial hardship exemption, the VHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The VHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

The VHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the VHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$35 Minimum rent	$35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The VHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the VHA determines there is no financial hardship, the VHA will reinstate the minimum rent and require the family to repay the amounts suspended. The VHA will require the family to repay the suspended amount within 30 calendar days of the VHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the VHA determines that a qualifying financial hardship is temporary, the VHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the VHA the amounts suspended. HUD requires the VHA to offer a reasonable repayment agreement, on terms and conditions established by the VHA. The VHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

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The VHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the VHA determines that the financial hardship is long-term, the VHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
- For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)] Overview

The VHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the VHA's payment standards. The establishment and revision of the VHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the VHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the VHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the VHA must use the appropriate payment standard for the exception area.

The VHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the VHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

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Changes in Payment Standards

When the VHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If a Housing Authority changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the VHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the VHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the VHA may either reduce the payment standard to the current amount in effect on the VHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The VHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the VHA will provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The VHA's policy on decreases in the payment standard during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

If the VHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the VHA will reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The VHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard. A new lease and HAP contract will also trigger the application of the increased payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Regardless of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size. If the payment standard schedule decreases and the

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family experiences a change in family size, or subsidy standard, the new, lower payment standard schedule will be used in determining the new applicable payment standard amount.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the VHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR. The VHA will do so only if the unit accommodates the disability in some way (e.g. has a wheelchair ramp, is close to medical care, etc.)

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A VHA-established utility allowance schedule is used in determining family share and VHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using VHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the VHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require the VHA to approve a utility allowance amount higher than shown on the VHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the VHA will approve an allowance for air-conditioning, even if the VHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the VHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the VHA must use the VHA current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The VHA must prorate the assistance provided to a mixed family. The VHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the VHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the VHA subsidy would be reduced to $250.

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Chapter 7

VERIFICATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

INTRODUCTION

The VHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The VHA will not pass on the cost of verification to the family.

The VHA will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary VHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the VHA.

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PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the VHA or HUD determines is necessary to the administration of the program and must consent to VHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the VHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the VHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with VHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the VHA to use the most reliable form of verification that is available and to document the reasons when the VHA uses a lesser form of verification.

In order of priority, the forms of verification that the VHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification

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- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to the VHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

The VHA staff member who views the original document will make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and initial or sign the copy.

Any family self-certifications must be made in a format acceptable to the VHA and must be signed in the presence of a VHA representative or notary public.

File Documentation

The VHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the VHA has followed all of the verification policies set forth in this Plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

The VHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When the VHA is unable to obtain third-party verification, the VHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2010-19].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the VHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the VHA.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the VHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the VHA.

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See Chapter 6 for the VHA's policy on the use of UIV/EIV to project annual income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

Housing Authorities must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

The VHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the VHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in the Program Integrity chapter of this Plan.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

Housing Authorities are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

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The VHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The VHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the VHA determines that discrepancies exist due to VHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Upfront Income Verification Using Non-HUD Systems

In addition to mandatory use of the EIV system, HUD encourages Housing Authorities to utilize other upfront verification sources.

The VHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

- HUD's EIV system
- The Work Number (an automated verification system)

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the VHA by the family. If written third-party verification is not available, the VHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2018-18]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

- Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.
- The VHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.
- The VHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Third-party documents provided by the family must be dated within 60 days of the VHA request date. If the VHA determines that third-party documents provided by the family are not acceptable, the VHA will explain the reason to the family and request additional documentation.

As verification of earned income, the VHA will require the family to provide at least two current, consecutive pay stubs. If additional pay stubs are submitted, the VHA will utilize up to

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six consecutive paystubs provided to calculate anticipated income for the next annual recertification. Where a participant or applicant has recently started employment, the VHA will utilize all pay stubs received to date and attempt to supplement them with written verification from the employer.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the VHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

- Housing Authorities may mail, fax, or e-mail third-party written verification form requests to third-party sources.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the VHA.

Oral Third-Party Verification [Notice PIH 2010-19]

- For third-party oral verification, Housing Authorities contact sources, identified by UIV techniques or by the family, by telephone or in person.
- Oral third-party verification is mandatory if neither form of written third-party verification is available.
- Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.
- The VHA will document in the family's file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

In collecting third-party oral verification, VHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the VHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

If the family cannot provide original documents, the VHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to

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the family. The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

As permitted by HUD, the VHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling $5,000 or less, the VHA may accept the family's declaration of asset value and anticipated asset income. However, the VHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

For families with net assets totaling $5,000 or less, the VHA will accept the family's selfcertification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The VHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the VHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and the VHA has adopted a policy to accept selfcertification at annual recertification, when applicable
- The VHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the VHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the VHA.

The VHA may require a family to certify that a family member does <u>not</u> receive a particular type of income or benefit.

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The self-certification must be made in a format acceptable to the VHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a VHA representative or notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The VHA will require families to furnish verification of legal identity for each household member. Examples of documents acceptable for this purpose include, but are not limited to:

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the VHA has reason to doubt the identity of a person representing him or herself to be a participant.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The VHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)

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- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The VHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

The VHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the VHA within 10 days. Applicants who are otherwise eligible may keep their application in active status until they are able to meet the SSN requirement, but may not become a participant until the requirement is met.

The VHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other verifiable emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the VHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the VHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

The VHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The VHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the VHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the VHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

The VHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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Social security numbers must be verified only once during continuously-assisted occupancy.

The VHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the VHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the VHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) ***and*** to provide a self-certification or other documents used to verify the legal identity of adults and children as listed in the Verification of Legal Identity table.

Age will be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If the VHA has reasonable doubts about a marital relationship, the VHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married. In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

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A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

The VHA may accept certification by the head of household as sufficient verification. If the VHA has reasonable doubts about a separation or divorce, the VHA will require the family to provide documentation of the divorce or separation.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). Personal statements will not be accepted as supporting evidence. In cases where every reasonable attempt to obtain verification from the permanently absent member has been made, the VHA may accept a self-certification from the head of household.

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

The VHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead of household
- The family reports child care expenses to enable a family member to further his or her education
- The family includes a student enrolled in an *institution of higher education*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy described in Section 7-1.B, the VHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

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- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the VHA cannot verify at least one of these exemption criteria, the VHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the VHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

The VHA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

- Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the VHA determines that the student is a *vulnerable youth* (see section 3-II.E)

7-II.F. DOCUMENTATION OF DISABILITY

The VHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The VHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The VHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the VHA receives a verification document that provides such information, the VHA will not place this information in the tenant file. Under no circumstances will the VHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/

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The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability benefits from the SSA, the VHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the VHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the VHA will ask the family to request a benefit verification letter by either calling SSA at 1-800772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the VHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter.

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This verifications chapter discusses HUD and VHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]. The family may request to change a family member's status (e.g. from ineligible non-citizen to eligible non-citizen). Should the family do so, the VHA will verify the new status.

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The VHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

VHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the VHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The VHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The VHA must verify any preferences claimed by an applicant that determined placement on the waiting list. Chapter 4 of this Plan describes in detail the method for selecting applicant families from the waiting list, including the system of admission preferences that the VHA will use.

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The VHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The VHA will verify this preference using the VHA's termination records.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides VHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Wages

For wages other than tips, the family must provide originals of at least two current, consecutive pay stubs. If additional pay stubs are submitted, the VHA will utilize up to six consecutive paystubs provided to calculate anticipated income for the next annual recertification. Where a participant or applicant has recently started employment, the VHA will utilize all pay stubs received to date and attempt to supplement them with written verification from the employer.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy
- All schedules completed for filing federal and local taxes in the preceding year
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules

The VHA may provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the VHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the VHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the

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VHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits

Streamlined income determination. For any family member with a fixed source of income, the VHA may elect to determine that family member's income by means of a streamlined income determination (24 CFR 982.516(b)). A streamlined income determination must be conducted by applying, for each fixed-income source, the verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount.

Family member with a fixed source of income is defined as a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources:

- Social Security, Supplemental Security Income, Supplemental Disability Insurance;
- Federal, state, local, or private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

The VHA must use a COLA or current rate of interest specific to the fixed source of income in order to adjust the income amount. The VHA must verify the appropriate COLA or current rate of interest from a public source or through tenant-provided, third party-generated documentation. If no such verification is available, then the VHA must obtain third-party verification of income amounts in order to calculate the change in income for the source.

For any family member whose income is determined pursuant to a streamlined income determination, the VHA must obtain third-party verification of all income amounts every 3 years.

To verify the SS/SSI benefits of applicants, the VHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the VHA will help the applicant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the VHA.

To verify the SS/SSI benefits of participants, the VHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit

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amount, or if benefit information is not available in HUD systems, the VHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the VHA will help the participant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the VHA.

7-III.D. ALIMONY OR CHILD SUPPORT

The methods the VHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 60 days prior to VHA request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts ***Note:*** Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

For a family with net assets equal to or less than $5,000 the VHA may accept a family's declaration that it has net assets equal to or less than $5,000, without taking additional steps to verify the accuracy of the declaration (24 CFR 982.516(a)(3).

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The VHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The VHA will verify the value of assets disposed of only if:

- The VHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

7-III.F. NET INCOME FROM RENTAL PROPERTY

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The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the VHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

The VHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the VHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the VHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the VHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the VHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

The VHA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, the VHA has the option of requiring additional verification.

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For partially excluded income, the VHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

7-III.I. ZERO ANNUAL INCOME STATUS

Families reporting zero income will be required to complete an expense worksheet every 90 days until they no longer report zero income.

The VHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, Social Security, SSI, and earnings are not being received by families claiming to have zero annual income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the VHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the VHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the VHA will request written verification of the student's tuition amount.

If the VHA is unable to obtain third-party written verification of the requested information, the VHA will pursue other forms of verification following the verification hierarchy in Section 7I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent

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from his or her parents or a *vulnerable youth* in accordance with VHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

If the VHA is required to determine the income eligibility of a student's parents, the VHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The VHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the VHA. The required information must be submitted (postmarked) within 10 business days of the date of the VHA's request or within any extended timeframe approved by the VHA.

The VHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

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PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the VHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The VHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of household of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The VHA must verify that the head, spouse, or co-head of household is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts
- The VHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The VHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months
- Written third-party verification forms, if the family is unable to provide acceptable documentation
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months. In addition, the VHA must verify that:
- The household is eligible for the deduction
- The costs to be deducted are qualified medical expenses
- The expenses are not paid for or reimbursed by any other source
- Costs incurred in past years are counted only once

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Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head of household is at least 62, or a person with disabilities. The VHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 of this Plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for the VHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source. The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the VHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

The VHA will accept written third-party documents provided by the family.

If family-provided documents are not available, the VHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

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Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- Third-party verification form signed by the provider, if family-provided documents are not available
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months In addition, the VHA must verify that:
- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above)
- The expense permits a family member, or members, to work (as described in Chapter 6)
- The expense is not reimbursed from another source (as described in Chapter 6)

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The VHA will verify that the expense is incurred for a person with disabilities (See Chapter 7).

Family Member(s) Permitted to Work

The VHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The VHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See Chapter 6). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense enables a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

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Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the VHA must verify that:

- The child is eligible for care (age 12 or younger)
- The costs claimed are not reimbursed
- The costs enable a family member to work, actively seek work, or further their education
- The costs are for an allowable type of child care
- The costs are reasonable

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child age 12 or younger. The VHA will verify that the child being cared for (including foster children) is age 12 or younger (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The VHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

The VHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the VHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the VHA will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to the VHA any reports provided to the other agency.

In the event third-party verification is not available, the VHA will provide the family with a form on which the family member must record job search efforts. The VHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The VHA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

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The VHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6, and will be verified by the VHA.

The VHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The VHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with the VHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the VHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the VHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and VHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS.

HUD also requires Housing Authorities to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and VHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the VHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the VHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

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PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the VHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the VHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable.

Modifications to Provide Accessibility

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Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit.

Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the VHA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The VHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The VHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, the VHA has adopted the following specific requirements that elaborate on HUD standards.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration and be lockable.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

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Clarification of Local Requirements

California Health and Safety Code, Section 19211(a) requires that water heaters be braced, anchored, or strapped to resist falling or horizontal displacement due to earthquake motion. At a minimum, any water heater shall be secured in accordance with California Plumbing Code pursuant to 17958.5.

Uniform Plumbing Code (UPC) 510.5 states that a water heater must be strapped with two seismic straps: one located within the top third of the water heater and one at the bottom third. The strap must be located at least 4" away from the water heater controls.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the VHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of VHA notification.

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks o A fuel storage vessel, fluid line, valve, or connection that supplies fuel to an HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire o A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
    - A light fixture is hanging by its wires o A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
    - A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
    - An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
    - A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
    - Any nicks, abrasions, or fraying of the insulation that exposes conducting wire o Exposed bare wires or electrical connections

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- o o Any condition that results in openings in electrical panels or electrical control device enclosures o Water leaking or ponding near any electrical device
- o Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit o Any components that affect the function of the fire escape are missing or damaged o Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency o The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
- Absence of a functioning toilet in the unit
- Inoperable or missing smoke detectors, at least on per floor, including basement and attic spaces
- Missing or inoperable carbon monoxide detector
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting o The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - o A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - o A fuel-fired space heater is not properly vented or lacks available combustion air o A non-vented space heater is present o Safety devices on a fuel-fired space heater are missing or damaged o The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

If an owner fails to correct life-threatening conditions as required by the VHA, the VHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the VHA, the VHA will enforce the family obligations. See 8-II.H.

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The owner will be required to repair or replace an inoperable smoke detector unless the VHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair or replace the smoke detector within 24 hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

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

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17]

If the VHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the VHA will complete a risk assessment of the dwelling unit. The risk assessment will be completed in accordance with program requirements, and the result of the risk assessment will be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information will be provided to the owner.

Within 30 days after receiving the risk assessment report from the VHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified leadbased paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the VHA may take action in accordance with Section 8-II.G.

VHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family

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- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wallmounted light fixtures may count as one of the required electrical outlets)

If the VHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the VHA must issue the family a new voucher, and the family and VHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the VHA must terminate the HAP contract in accordance with its terms.

8-I.G. PEST MANAGEMENT [24 CFR 903.7 (e)(2)]

HUD's and VHA's acceptability criteria that is a key aspect of housing quality is the sanitary condition of the unit. Housing and facilities must be free of insects, rodents, and other vermin. 20CFR 654.415. It is best to have a highly trained professional conduct an inspection if pests have been reported. The VHA can issue a citation if evidence of pests have been observed.

The presence of insects, rodents, and other vermin should be remediated through pest control efforts (this can be any commercial pest control service or a specially designated employee) by property management with the least possible hazard to people, property, and the environment.

The landlord should establish an ongoing monitoring and record keeping system for regular assessment of pests. Determining, with involvement of residents, action thresholds at which pest populations warrant action.

1. Improving sanitation, waste management, mechanical pest management methods, and/or natural control agents that have been carefully selected as appropriate in light of allergies or cultural preferences of staff or residents.

2. Monitoring and maintaining structures and grounds (e.g., sealing cracks, eliminating intrusion) and adding physical barriers to pest entry and movement.

3. Ensuring that leases reflect residents responsibilities for: (a) proper housekeeping, (b) reporting presence of pests, and (c) enforcing lease provisions regarding resident responsibilities such as housekeeping, sanitation, and trash removal and storage.

8-I.H. MOLD-LIKE SUBSTANCES

A "mold-like substance" can include regular or irregular patches or spots on surfaces that may be colored differently than the surface (coloration can be white, green, yellow, gray, brown, or

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black), and can be raised from the surface. A “mold-like substance” can appear “fuzzy” or “cottony” and a musty or earthy odor can be associated with it. “Mold-like substance” would also include what is often identified as “mildew,” i.e., small patches, generally on non-porous surfaces, and dusty (friable) when dry; mildew is generally a thin surface growth that can be wiped off easily.

Presence of a mold-like substance at even very low levels may be an indicator of conditions that may in turn lead to conditions that affect indoor air quality that may negatively impact respiratory health, including triggering asthma events. Higher levels of mold-like substance may be indicative of conditions that may negatively impact structural conditions of the building, such as leaks or ventilation, that would require repair in order to appropriately remediate the mold-like substance.

Patches or spots. Odor is an indicator, but not a diagnostic; if a musty odor is detected, visual confirmation of “mold-like substance” is required. Odor may be indicated in a “notes” field of the inspection report. The location of mold-like substances includes areas where there could be potential water intrusion or captive moisture: e.g., walls, floors, ceilings, bathrooms, kitchens, bedrooms, closets, basements, laundry rooms, any other area that wood, drywall, and moisture are present. This deficiency is not recorded if observed on household items (e.g., clothing, upholstery, food).

It is reasonable to expect a tenant to report this deficiency, and for the landlord to prioritize a work order response to fix that deficiency. A resident is likely to notice a mold-like substance and recognize it is important enough to report it to property management. The landlord should be expected to prioritize a work order for this condition and its presence may imply there are areas of opportunity to improve corrective maintenance practices.

Deficiencies critical to habitability but not presenting a substantive health or safety risk to the resident have a correction timeframe up to 30 days. A written extension may be requested by the landlord and reviewed by VHA for approval.

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PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The VHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The VHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/Biennial Inspections.* HUD requires the VHA to inspect each unit under lease at least annually or biennially, depending on VHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection Costs [Notice PIH 2016-05]

The VHA will not charge the family for unit inspections or reinspections [24 CFR 982.405(e)].

The VHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the VHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the VHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the VHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

In cases where a landlord has notified the VHA that a repair has been made but the deficiency has not been corrected, the VHA may impose a $25 re-inspection fee.

Notice and Scheduling

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

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours, unless mutually agreed upon by the VHA and the family. For special inspections, the VHA will make a reasonable attempt to notify the owner, but failure to contact the owner will not prevent the VHA from conducting an inspection. Inspections may be scheduled between 8:00 a.m. and 5:00 p.m. Inspections will be conducted on business days only. In the case of a

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life-threatening emergency, the VHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the VHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

When a family occupies the unit at the time of inspection, an adult family member or representative must be present for the inspection. The inspection will not be conducted if no adult is present, and will count against the family as a missed inspection.

The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the VHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Initial Inspections [FR Notice 1/18/17]

The VHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the VHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

The VHA will approve the assisted tenancy and start HAP if the deficiencies are non-lifethreatening. The VHA may authorize occupancy if a unit passed an alternative inspection in the last 24 months, providing the inspection was conducted by an inspector experienced in HQS. The VHA reserves the right to require its own HQS inspection prior to approving a tenancy and starting HAP if it has reason to believe the owner will not make the required repairs or that a previous inspection did not fully cover all HQS criteria.

Timing of Initial Inspections (24 CFR 982.305)

The VHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA), providing that the unit is ready and available for inspection. The VHA will not accept an RTA for a unit that is more than 60 days from being available for inspection and occupancy.

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given 10 days to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the VHA for good cause. The VHA will reinspect the unit within 5 business days of the date the owner notifies the VHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any VHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the VHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The VHA

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may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

If utility service is not available for testing at the time of the initial inspection, the VHA will consider the inspection Inconclusive and allow the utilities to be placed in service after the unit has met all other HQS requirements. The VHA will require certification to confirm that utilities are operational before the HAP contract is executed by the VHA.

Appliances [Form HUD-52580]

If the family is responsible for supplying the stove and/or refrigerator, the VHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the VHA. The VHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

Each unit under HAP contract must be inspected within 24 months of the last full HQS inspection.

Scheduling the Inspection

If an adult family member cannot be present on the scheduled date, the family should request that the VHA reschedule the inspection. The VHA and family will agree on a new inspection date that generally should take place within 5 business days of the originally-scheduled date. The VHA may schedule an inspection more than 5 business days after the original date for good cause at the discretion of the VHA. Good cause is defined as an unavoidable medical emergency or similar situation that, through no fault of the family, prevents the family from meeting their obligation to be present for the inspection.

The VHA will not conduct the inspection if the family member present for the inspection is a minor.

If the family misses the first scheduled appointment without requesting a new inspection date, the VHA will automatically schedule a second inspection. If the family misses two scheduled inspections without VHA approval, the VHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the VHA must inspect the unit within 24 hours of

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notification. If the reported condition is not life-threatening, the VHA must inspect the unit within 15 days of notification. The VHA will also conduct a special inspection if the owner reports HQS violations in the unit.

During a special inspection, the VHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs. However, the VHA has the right to inspect the entire unit during a special inspection.

If the biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the VHA may elect to conduct a full biennial inspection and cancel the one already scheduled.

Move Out Inspections

Move-out inspections are not required by HUD and in general, the VHA will not conduct them. The VHA reserves the right to conduct a move out inspection if needed to document excessive damages for purposes of enforcing the family obligations. Conducting a move-out inspection does not obligate the VHA to conduct other move-out inspections.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

HUD requires a VHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample will include units that meet at least the minimum HUD requirements.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections, either by receiving a copy of the inspection or by other means as chosen by the VHA. The notice will identify the time period allowed for correcting deficiencies.

When life-threatening conditions are identified, the VHA will attempt to immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the VHA's notice.

When failures that are not life-threatening are identified, the VHA will provide the owner and the family a written notification of the inspection results in a timely manner. The written notice will specify the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any VHA-approved extension), the owner's HAP may be abated in

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accordance with VHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any VHA-approved extension, if applicable) the family's assistance may be terminated in accordance with VHA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the VHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the VHA may grant an exception to the required time frames for correcting the violation, if the VHA determines that an extension is appropriate [24 CFR 982.404].

Extensions will be granted in cases where the VHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available. A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but typically will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Verbal requests for extensions will not be accepted. Requests for extensions must be in writing and must be received by VHA no less than 5 days before the due date.

Reinspections

At the VHA's discretion, the VHA may conduct a physical reinspection immediately following the end of the corrective period, or any VHA approved extension, or receive confirmation that the repairs have been completed via phone, fax, written certification, or drive-by inspection, if the corrections are visible from public property.

If the VHA has determined from an annual or special inspection that the unit did not meet HQS requirements due to non-life-threatening items, the VHA may allow the unit to pass upon verification that the HQS deficiency has been corrected. A re-inspection is not necessary if the VHA can obtain verification through other means – including photos, receipts, invoices, work orders, or landlord/tenant self-certifications. In the case of initial inspections, the VHA is required to and will conduct a follow-up inspection if the unit does not pass HQS.

Physical reinspections will typically be done if the landlord has a history of non-compliance, or if the same deficiency was noted on the previous inspection. The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the VHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with VHA

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policies. If the VHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the VHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the VHA will take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the VHA, HUD requires the VHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents will not be abated as a result of HQS failures that are the family's responsibility.

The VHA will make all HAP abatements effective the first of the month following the expiration of the VHA specified correction period (including any extension).

The VHA will verify within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit is cleared or the day that the owner certified that the repairs are completed.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the VHA before the termination date of the HAP contract, the VHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the VHA is 30 days.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the VHA (and any extensions), the VHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

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PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the VHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The VHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The VHA may assist the family with the negotiations upon request. At initial occupancy the VHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner cannot change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the VHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the VHA will consider unit size and length of tenancy in the other units.

The VHA will determine whether the requested increase is reasonable in a timely manner. The owner will be notified of the determination in writing.

All approved rent adjustments will be effective the first of the month following 60 days after the VHA's receipt of the owner's request or on the date specified by the owner, whichever is later. The landlord must also provide proper notice to the family as required by state law.

VHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the VHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the VHA to make a determination at any other time. The VHA may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, the VHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the VHA determines that the initial rent reasonableness determination was in error or (2) the VHA determines that the

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information provided by the owner about the unit or other units on the same premises was incorrect.

For purposes of determining rent reasonableness, information from the Solano County Tax Assessor's office may be used to verify the unit information, specifically the description of the unit listed. If there is a discrepancy between the unit size listed with the Assessor's office and the size being claimed on the RTA, the VHA must use the size listed with the Assessor's office unless the owner is able to provide appropriate documentation to submit a different size.

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the VHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the VHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires Housing Authorities to take into consideration the factors listed below when determining rent comparability. The VHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

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Note: Notice PIH 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the VHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the VHA information regarding rents charged for other units on the premises.

8-III.D . VHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

The VHA contracts with GoSection8.com to collect and maintain data on market rents in the VHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries.

How Rents Are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The VHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the VHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas). Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The VHA will notify the owner of the rent the VHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The VHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the VHA’s request for information or the owner’s request to submit information.

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Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the VHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the VHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the VHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
  - The owner must be an eligible owner, approvable by the VHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

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9-I.A. TENANT SCREENING

The VHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The VHA will not screen applicants for family behavior or suitability for tenancy. The VHA will inform owners of their responsibility to screen prospective tenants, and of their responsibility to comply with VAWA [Pub. L. 109-162].

As required by regulation, [24 CFR 982.307 (b)(1)], the VHA will provide owners with the required known name and address information of previous owners, at the prospective owner's request. The VHA will not provide information to owners which is prohibited under the Privacy Act (5 U.S.C.552a).

The VHA must inform the owner or manager of his/her rights and obligations under the Violence Against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)]

The VHA may not disclose to the owner any confidential information provided by the family in response to a VHA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

The VHA's policy on providing information to the owner will be included in the family's briefing packet [24 CFR 982.307(b)(3)].

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the VHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the VHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the VHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the VHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

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For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

The RTA must be signed by both the family and the owner.

The owner may submit the RTA on behalf of the family.

Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, inperson, or by mail.

The family may not submit, and the VHA will not process, more than one (1) RTA at a time.

When the family submits the RTA the VHA will review the RTA for completeness.

> If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the VHA will notify the family and the owner of the deficiencies.
>
> Missing information and/or missing documents will only be accepted as hard copies, inperson, by mail, or by fax (at the discretion of the VHA). The VHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, the VHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

> If the terms of the RTA are not consistent with the terms of the proposed lease, the VHA will notify the family and the owner of the discrepancies.
>
> Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The VHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the VHA will attempt to communicate with the owner and family by phone, fax, or e-mail. The VHA will use mail when the parties cannot be reached by phone, fax, or e-mail.

9-I.C. OWNER PARTICIPATION

The VHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the VHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the VHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]. See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental

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dwelling unit on the market in the VHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The VHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the VHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the VHA has chosen to allow.

The regulations do require the VHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;

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- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the VHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

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Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. The preferred method to achieve this is for the owner to indicate on the lease under other terms and conditions that the HUD Tenancy Addendum is included in the lease. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

The VHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The HUD program regulations permit the VHA to approve an initial lease term of less than one year if certain conditions are met.

The VHA will approve an initial lease term of month-to-month, six month lease, or any other lease term which is acceptable to the family. Such shorter lease term will improve housing opportunities for the tenant, and such shorter term is the prevailing local market practice.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

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The VHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The VHA will allow the owner to collect any security deposit amount the owner determines is appropriate, in accordance with California State law.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the VHA minus the VHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

Owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no extra cost to unsubsidized tenants in the premises. [24 CFR 982.510(c)].

The VHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are <u>not</u> customarily provided to unassisted families as part of the dwelling lease with those families, are <u>not</u> permanently installed in the dwelling unit and where the family has the sole option of <u>not</u> utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

VHA Review of Lease

The VHA is permitted to but not required to, and in general will not, review the lease to determine if the lease complies with State and local law. However, the VHA is permitted to

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decline to approve the tenancy if the VHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)], and will require the owner to modify the lease in order to comply with state and local law. If the owner does not do this within 7 calendar days, then VHA will take any and all actions appropriate under its contract with the owner, including cancellation.

If the dwelling lease is incomplete or incorrect, the VHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. In general, the VHA will not accept missing and corrected information over the phone, but retains the discretion to do so.

Because the initial leasing process is time-sensitive, the VHA will attempt to communicate with the owner and family by phone, fax, or e-mail. The VHA will use mail when the parties cannot be reached by phone, fax, or e-mail.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the VHA will promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the VHA will ensure that all required actions and determinations discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the VHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the VHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the VHA, the VHA will obtain corrected copies of the RTA and proposed lease, or lease addendum, signed by the family and the owner. Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. In general, the VHA will not accept missing and corrected information over the phone, but retains the discretion to do so.

If the VHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. The VHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

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If the tenancy is not approvable due to rent or rent reasonableness, the VHA may attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the VHA and the owner of the dwelling unit. Under the HAP contract, the VHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the VHA has given approval for the family of the assisted tenancy, the owner and the VHA execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The VHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The VHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The VHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the VHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and the VHA may not pay any housing assistance payment to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the VHA. The VHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the VHA will execute the HAP contract. The VHA will not execute the HAP contract until the owner has submitted IRS form W-9. The VHA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the VHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

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Generally, VHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the VHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The VHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)]. However, if a rent increase is written into the lease and the assisted family agrees to it by executing the lease, the VHA will process it accordingly.

Where the owner is requesting a rent increase, the VHA will determine whether the requested increase is reasonable within 30 business days of receiving the request from the owner. The VHA will agree to a rent increase if the amount of the rent to the owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8.

If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60 day period a) after the owner notifies the VHA of the rent change or on the date specified by the owner, or b) the date the unit passed its latest annual inspection, whichever is later. The owner will be notified in writing if the increase will take effect on any other date besides the one requested, or if the amount of the increase is different than what was requested.

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Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the Housing Choice Voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and VHA policies governing moves within or outside the VHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the VHA's HCV program, whether the family moves to another unit within the VHA's jurisdiction or to a unit outside the VHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the VHA's jurisdiction. This part also covers the special responsibilities that the VHA has under portability regulations and procedures.

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PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B. Moves related to Project Based HCV assistance are discussed in Chapter 18.

- The family has a right to terminate the lease by providing proper notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the VHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].

- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)]. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must provide the VHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the VHA a copy of any owner eviction notice [24 CFR 982.551(g)].

- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the VHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)]. The VHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

  If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the VHA will request documentation in accordance with section 16-IX.D of this plan. The VHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the VHA will document the waiver in the family's file.

- The VHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].

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- The VHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the VHA must issue the family a new voucher, and the family and VHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the VHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the VHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a Housing Authority may deny a family permission to move and two ways in which a Housing Authority may restrict moves by a family.

Denial of Moves

HUD regulations permit the VHA to deny a family permission to move under the following conditions:

Insufficient Funding

The VHA may deny a family permission to move either within or outside the VHA's jurisdiction if the VHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of Housing Authorities to deny permission to move due to insufficient funding and places further requirements on Housing Authorities regarding moves denied due to lack of funding. The requirements found in PIH 2016-09 notice are mandatory.

The VHA will deny a family permission to move on grounds that the VHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the VHA; (b) the VHA can demonstrate that the move will, in fact, result in higher subsidy costs (c) the VHA can demonstrate, in accordance with the policies in this Plan, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving Housing Authority is not absorbing the voucher.

If the VHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the VHA's jurisdiction. The VHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the VHA's jurisdiction and outside under portability, the VHA will not deny a move due to insufficient funding if the VHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The VHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

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The VHA will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. The VHA will notify the families on this list in the order that they were placed. The VHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The VHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance. [24 CFR 982.354(e)(2)].

If the VHA has grounds for denying or terminating a family's assistance, the VHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the VHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the VHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the VHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

The VHA will deny a family permission to make an elective move during the family's initial lease term. The VHA will consider, but not guarantee, exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), or to address an emergency situation over which a family has no control, if there is mutual agreement between both the family and the owner or if the VHA terminates the HAP contract because the unit fails to meet HQS according to the policies and procedures in Chapter 8 of the Plan.

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the VHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the VHA's jurisdiction under portability, the notice to the VHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a family's notification that it wishes to move, the VHA will determine whether the move is approvable in accordance with the regulations and policies set forth in

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sections 10I.A and 10-I.B. The VHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

For families approved to move to a new unit within the VHA's jurisdiction, the VHA will not perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this Plan.

For families moving into or families approved to move out of the VHA's jurisdiction under portability, the VHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

For families approved to move to a new unit within the VHA's jurisdiction, the VHA will generally issue a new voucher within 14 days of the VHA's written approval to move, depending on the length of the notice. For families who will not be moving for 60 to 90 days, the VHA may, at its discretion, choose to issue the voucher at a later date so that it will not expire prematurely. No briefing is required for these families; however, it is the VHA's policy to meet with families prior to issuing the voucher to explain the process of moving. This gives the VHA an opportunity to review HCV policy with the tenants, and to answer any questions they may have.

The VHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the VHA approves. Otherwise, the family will lose its assistance. For families moving into or families approved to move out of the VHA's jurisdiction under portability, the VHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the VHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. This does not apply if the family moves out of the unit prior to the expiration of the notice terminating the lease. For example, if a family gives 30-day notice to the owner and the VHA that the family will vacate on the tenth of the month, but actually vacates on the last day of the month prior, the VHA will continue to pay HAP through the tenth, and the family will not be permitted to lease a new unit until the eleventh day or after. The family will also be obligated to pay their share of rent on the old unit until the end of the notice.

The VHA will prorate the HAP to owner for the month in which the family vacates the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

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10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a Housing Authority administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one Housing Authority and uses it to lease a unit in the jurisdiction of another Housing Authority is known as portability. The Housing Authority that issues the voucher is called the **initial Housing Authority.** The Housing Authority that has jurisdiction in the area to which the family wants to move is called the **receiving Housing Authority.**

The receiving Housing Authority has the option of administering the family's voucher for the initial Housing Authority or absorbing the family into its own program. Under the first option, the receiving Housing Authority provides all housing services for the family and bills the initial Housing Authority for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving Housing Authority pays for the family's assistance with its own program funds, and the initial Housing Authority has no further relationship with the family. This is known as "absorbing" a family into the receiving Housing Authority's program.

The initial Housing Authority must contact the receiving Housing Authority via email or other confirmed delivery method to determine whether the receiving Housing Authority will administer or absorb the initial Housing Authority's voucher. Based on the receiving Housing Authority's response, the initial Housing Authority must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

Housing Authorities commonly act as both the initial and receiving Housing Authority because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The VHA will follow the rules and policies in section 10-II.B when it is acting as the initial Housing Authority for a family. It will follow the rules and policies in section 10II.C when it is acting as the receiving Housing Authority for a family.

In administering portability, the initial Housing Authority and the receiving Housing Authority must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

Housing Authorities must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving Housing Authority if the Housing Authority does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. INITIAL HOUSING AUTHORITY ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one Housing Authority administering a voucher program [24 CFR 982.353(b)]. If there is more than one Housing Authority in the area, the initial Housing Authority provides the family with the contact information for the receiving Housing Authorities that serve the area, and the family selects the receiving Housing Authority. The family must inform the initial Housing Authority which

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Housing Authority it has selected. If the family prefers not to select the receiving Housing Authority, the initial Housing Authority will select the receiving Housing Authority on behalf of the family [24 CFR 982.255(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the VHA's jurisdiction under portability. HUD regulations and VHA policies determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the VHA's jurisdiction under portability. However, HUD gives the VHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If the VHA intends to deny a family permission to move under portability due to insufficient funding, the VHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

In determining whether or not to deny an applicant family permission to move under portability because the VHA lacks sufficient funding or has grounds for denying assistance to the family, the VHA will follow the policies established in section 10-I.B of this chapter.

In addition, the VHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

If neither the head of household nor the spouse/co-head of household of an applicant family had a domicile (legal residence) in the VHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the VHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The VHA may consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Participant Families

The initial Housing Authority must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

The VHA will determine whether a participant family may move out of the VHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The VHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

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Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial Housing Authority is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the VHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

For a participant family approved to move out of its jurisdiction under portability, the VHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The VHA will not conduct an interim reexamination for a family who is porting out if its jurisdiction after a Notice to Move Out of Jurisdiction form is received. Any changes the family wishes to make to the household composition after a Notice to Move Out of Jurisdiction form is received will be the responsibility of the receiving Housing Authority.

The VHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the VHA to provide information on portability to all applicant families that qualify to lease a unit outside the VHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

As required by HUD, the VHA will provide the name, address, and phone of the contact for the Housing Authorities in the jurisdiction to which the family wishes to move. If there is more than one Housing Authority with jurisdiction over the area to which the family wishes to move, the VHA will advise the family that the family selects the receiving Housing Authority and must notify the VHA of which receiving Housing Authority was selected. The VHA will provide the family with contact information for all of the receiving Housing Authorities that serve the area. The VHA will not provide any additional information about receiving Housing Authorities in the area. The VHA will further inform the family that if the family prefers not to select the receiving Housing Authority, the initial Housing Authority will select the receiving Housing Authority on behalf of the family. In this case, the VHA will not provide the family with information for all receiving Housing Authorities in the area.

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The VHA will advise the family that they will be under the receiving Housing Authority's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher. [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the VHA will follow the regulations and procedures set forth in Chapter 5.

For participating families approved to move under portability, the VHA will issue a new voucher in a timely manner.

If a participant family that has already begun searching for new housing within the VHA's jurisdiction later decides they would like to exercise their right to portability, the VHA will ensure the term of their voucher is the same as participant families remaining in the VHA's jurisdiction, including any extensions a remaining family may be eligible for, prior to issuing the portability packet.

Voucher Extensions and Expiration

The VHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the VHA's jurisdiction because the family will already have been issued the maximum time available to them. Families choosing to exercise their right to portability will be informed of this policy.

An exception to this policy will be made if the family is a disabled family and has not yet received an extension of the voucher as a reasonable accommodation.

To receive or continue receiving assistance under the initial Housing Authority's voucher program, a family that moves to another Housing Authority's jurisdiction under portability must be under HAP contract in the receiving Housing Authority's jurisdiction within 90 days following the expiration date of the initial Housing Authority's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.) If the initial Housing Authority extends the term of the voucher, the receiving Housing Authority's voucher will expire 30 calendar days from the new expiration date of the initial Housing Authority's voucher.

Preapproval Contact with the Receiving Housing Authority

Prior to approving a family's request to move under portability, the initial Housing Authority must contact the receiving Housing Authority via e-mail or other confirmed delivery method to determine whether the receiving Housing Authority will administer or absorb the family's voucher. Based on the receiving Housing Authority's response, the initial Housing Authority must determine whether it will approve or deny the move [24 CFR 982.355(c)(3)].

The VHA will use e-mail, when possible, to contact the receiving Housing Authority regarding whether the receiving Housing Authority will administer or absorb the family's voucher.

Initial Notification to the Receiving Housing Authority

After approving a family's request to move under portability, the initial Housing Authority must promptly notify the receiving Housing Authority via email or other confirmed delivery method

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to expect the family. [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial Housing Authority must also advise the family how to contact and request assistance from the receiving Housing Authority. [24 CFR 982.355(c)(6)].

Because the portability process is time-sensitive, the VHA will notify the receiving Housing Authority by phone, fax, or e-mail to expect the family. The initial Housing Authority will also ask the receiving Housing Authority to provide any information the family may need upon arrival, including the name, fax, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The VHA will pass this information along to the family.

Sending Documentation to the Receiving Housing Authority

The initial Housing Authority is required to send the receiving Housing Authority the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher. [Per Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

In addition to these documents, the VHA may provide the following information, if available, to the receiving Housing Authority:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial Housing Authority. In cases where suspension of the voucher delays the initial billing submission, the receiving Housing Authority must notify the initial Housing Authority of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial Housing Authority must extend the billing deadline by 30 days.

If the initial Housing Authority does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving Housing Authority in

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writing. The initial Housing Authority may report to HUD the receiving Housing Authority's failure to comply with the deadline.

If the initial Housing Authority will honor the late billing, no action is required.

If the VHA has not received an initial billing notice from the receiving Housing Authority within the billing deadline, it will contact the receiving Housing Authority to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The VHA will send the receiving Housing Authority a written confirmation of its decision by mail.

The VHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving Housing Authority.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving Housing Authority is administering the family's voucher, the receiving Housing Authority bills the initial Housing Authority for housing assistance payments and administrative fees. When reimbursing for administrative fees, unless there are qualified exceptions, the initial Housing Authority must promptly reimburse the receiving Housing Authority for the lesser of 80 percent of the initial Housing Authority ongoing administrative fee or 100 percent of the receiving Housing Authority's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving Housing Authority is billing the initial Housing Authority under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving Housing Authority may bill [24 CFR 982.355(e)(2)].

The initial Housing Authority is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial Housing Authority receives Part II of form HUD-52665 from the receiving Housing Authority. Subsequent payments must be **received** by the receiving Housing Authority no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving Housing Authority is able and willing to accept.

The initial Housing Authority may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The VHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving Housing Authorities as well as for families that remain within its jurisdiction.

The VHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving Housing Authority notifies the VHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial Housing Authority is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving Housing Authority. If the initial Housing

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Authority fails to receive an updated 50058 by the family's annual reexamination date, the initial Housing Authority should contact the receiving Housing Authority to verify the status of the family. The initial Housing Authority must continue paying the receiving Housing Authority based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial Housing Authority may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Subsequent Family Moves

Within the Receiving Housing Authority's Jurisdiction Notice PIH 2016-09]

The VHA has the authority to deny subsequent moves that will result in a higher housing assistance payment by portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If the VHA determines that it must deny moves that result in a higher housing assistance payment on the grounds that it lacks sufficient funding (see section 10-I.B), it will notify all receiving Housing Authorities with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by portable families from the VHA's jurisdiction. The VHA may allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities or a member that has been subject to domestic violence.

Outside the Receiving Housing Authority's Jurisdiction [Notice PIH 2012-42] If the VHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving Housing Authority's jurisdiction, the VHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving Housing Authority and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving Housing Authority. Any extensions of the VHA's voucher necessary to allow the family additional search-time to return to the VHA's jurisdiction or to move to another jurisdiction would be at the discretion of the VHA.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial Housing Authority or the receiving Housing Authority may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For VHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING HOUSING AUTHORITY ROLE

If a family has a right to lease a unit in the receiving Housing Authority's jurisdiction under portability, the receiving Housing Authority must provide assistance for the family. [24 CFR 982.355(10)]. HUD may determine in certain instances that a Housing Authority is not required to accept incoming portable families, such as a Housing Authority in a declared disaster area. However, the receiving Housing Authority must have approval in writing from HUD before refusing any incoming portable families. [24 CFR 982.355(b)].

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Administration of the voucher must be in accordance with the receiving Housing Authority's policies. This requirement also applies to policies of Moving-to-Work agencies. The receiving Housing Authority procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving Housing Authority waiting list is not used. [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving Housing Authority [24 CFR 982.355(c)(12)], and the receiving
Housing Authority's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial Housing Authority's Request [24 CFR 982.355(c)]

The receiving Housing Authority must respond via e-mail or other confirmed delivery method to the initial Housing Authority's inquiry to determine whether the family's voucher will be billed or absorbed. [24 CFR 982.355(c)(3)]. If the receiving Housing Authority informs the initial Housing Authority that it will be absorbing the voucher, the receiving Housing Authority cannot reverse its decision at a later date without consent of the initial Housing Authority. (24 CFR 982.355(c)(4).

The VHA will use e-mail, when possible, to notify the initial Housing Authority whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the VHA's jurisdiction under portability, the family is responsible for promptly contacting the VHA and complying with the VHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving Housing Authority's voucher. [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial Housing Authority has expired, the receiving Housing Authority must contact the initial Housing Authority to determine if it will extend the voucher. [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving Housing Authority refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving Housing Authority to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 201609].

The VHA will require the family to attend a briefing as long as it does not unduly delay the family's search. The VHA, in a group, or at the VHA's discretion, an individual briefing, will orally inform the family about the VHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process and additional information regarding VHA policies.

Income Eligibility and Reexamination

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The receiving Housing Authority does not re-determine eligibility for a portable family that was already receiving assistance in the initial Housing Authority's voucher program. [24 CFR 982.355(c)(9)]. If the receiving Housing Authority opts to conduct a new reexamination for a current participant family, the receiving Housing Authority may not delay issuing the family a voucher or otherwise delay approval of a unit. [24 CFR 982.355(c)(11)].

In general, the VHA will not conduct a new reexamination of family income and composition unless the family reports information on its Tenant Information Form (or other VHA application form) that is different from that provided by the initial Housing Authority on the 50058, except when the reexamination anniversary is within the next 120 days or when a reexamination has not been done in the last 12 months. In such cases, the VHA will conduct a new reexamination. However, the VHA will not delay issuing the family a voucher for this reason, nor will the VHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the VHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the VHA will request new verification of the change in income or household composition. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the VHA is required to issue the family a voucher. [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the VHA during the term of the VHA's voucher. [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving Housing Authority to issue the voucher within two weeks after receiving the family's paperwork from the initial Housing Authority if the information is in order, the family has contacted the receiving Housing Authority, and the family complies with the receiving Housing Authority's procedures. [Notice PIH 2016-09].

When a family ports into its jurisdiction, the VHA will issue the family a voucher based on the paperwork provided by the initial Housing Authority unless the family's paperwork from the initial Housing Authority is incomplete, the family's voucher from the initial Housing Authority has expired, or the family does not comply with the VHA's procedures. The VHA will update the family's information when verification has been completed. ***Voucher Term***

The term of the receiving Housing Authority's voucher may not expire before 30 calendar days from the expiration of the initial Housing Authority's voucher [24 CFR 982.355(c)(13)]. If the initial Housing Authority extends the term of the voucher, the receiving Housing Authority's voucher may not expire before 30 days from the new expiration date of the initial Housing Authority's voucher [Notice PIH 2016-09].

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]

Once the receiving Housing Authority issues the portable family a voucher, the receiving Housing Authority's policies on extensions of the voucher term apply. The receiving Housing Authority must inform the initial Housing Authority of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial Housing Authority.

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Unless willing and able to absorb the family, the receiving Housing Authority should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial Housing Authority.

If the VHA plans to absorb the family into its own program, it will extend the term of the voucher, if necessary to ensure that the incoming portable family receives the same total amount of search time that one of the VHA's own families would receive. For example, if the VHA is granting vouchers, including any extensions, that total 120 days, and an incoming portable family's voucher is only valid for 60 days, the VHA will extend the incoming portable family's voucher to a total of 120 days.

If the VHA will not absorb the family into its own program, the VHA will follow the above policy as long as the extension allows sufficient time to meet the initial Housing Authority's billing deadline.

The VHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving Housing Authority's voucher, the initial Housing Authority must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for the initial Housing Authority's approval of the tenancy until the date the initial Housing Authority notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial Housing Authority

The receiving Housing Authority must promptly notify the initial Housing Authority if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving Housing Authority's voucher. [24 CFR 982.355(c)(16)]. The receiving Housing Authority is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving Housing Authority but instead wishes to return to the initial Housing Authority's jurisdiction or to search in another jurisdiction, the receiving Housing Authority must refer the family back to the initial Housing Authority. In such a case the voucher of record for the family is once again the voucher *originally* issued by the initial Housing Authority. Any extension of search time provided by the receiving Housing Authority's voucher is only valid for the family's search in the receiving Housing Authority's jurisdiction [Notice PIH 2016-09].

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving Housing Authority bills the initial Housing Authority for housing assistance payments and administrative fees. The

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amount of the housing assistance payment for a portable family in the receiving Housing Authority's program is determined in the same manner as for other families in the receiving Housing Authority's program.

The receiving Housing Authority may bill the initial Housing Authority for the lesser of 80 percent of the initial Housing Authority's ongoing administrative fee or 100 percent of the receiving Housing Authority's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving Housing Authority is billing the initial Housing Authority under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving Housing Authority may bill (i.e., the receiving Housing Authority may bill for the lesser of 80 percent of the initial Housing Authority's prorated ongoing administrative fee or 100 percent of the receiving Housing Authority's ongoing administrative fee).

If both Housing Authorities agree, the Housing Authorities may negotiate a different amount of reimbursement. Unless the VHA negotiates a different amount of reimbursement with the initial Housing Authority, the VHA will bill the initial Housing Authority the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving Housing Authority intends to administer the family's voucher, the receiving Housing Authority must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial Housing Authority. [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving Housing Authority, must be attached to the initial billing notice. The receiving Housing Authority may send these documents by mail, fax, or e-mail. The VHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving Housing Authority fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial Housing Authority is willing to accept the late submission or (b) HUD requires the initial Housing Authority to honor the late submission (e.g., because the receiving Housing Authority is over leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination. The receiving Housing Authority must send the initial Housing Authority a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving Housing Authority is billing the initial Housing Authority on behalf of the family, regardless of whether there is a change in the billing amount.

Change in Billing Amount. The receiving Housing Authority is required to notify the initial Housing Authority, using form HUD-52665, of any change in the billing amount for the family as a result of:

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- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial Housing Authority with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving Housing Authority fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial Housing Authority is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial Housing Authority will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

If the initial Housing Authority fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving Housing Authority must promptly notify the initial Housing Authority in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving Housing Authority must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving Housing Authority. If the initial Housing Authority fails to correct the problem by the second month following the notification, the receiving Housing Authority may request by memorandum to the director of the OPH with jurisdiction over the receiving Housing Authority that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the Housing Authorities on the matter must be attached. The receiving Housing Authority must send a copy of the memorandum to the initial Housing Authority. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial Housing Authority is still responsible for any outstanding payments due to the receiving Housing Authority.

Overpayments [Notice PIH 2016-09]

In all cases where the receiving Housing Authority has received billing payments for billing arrangements no longer in effect, the receiving Housing Authority is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial Housing Authority.

In the event that HUD determines billing payments have continued for at least three months because the receiving Housing Authority failed to notify the initial Housing Authority that the billing arrangement was terminated, the receiving Housing Authority must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial Housing Authority.

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- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving Housing Authority of the date and the amount of reimbursement to the initial Housing Authority.

At HUD's discretion, the receiving Housing Authority will be subject to the sanctions provided for in Notice PIH 2016-09.

Denial or Termination of Assistance

At any time, the receiving Housing Authority may make a determination to deny or terminate assistance to a portable family for family action or inaction. [24 CFR 982.355(c)(17)].

In the case of a termination, the VHA should provide adequate notice of the effective date to the initial Housing Authority to avoid having to return a payment. In no event should the receiving Housing Authority fail to notify the initial Housing Authority later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2016-09].

If the VHA elects to deny or terminate assistance for a portable family, the VHA will notify the initial Housing Authority within 10 business days after the informal review or hearing if the denial or termination is upheld. The VHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving Housing Authority will furnish the initial Housing Authority with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving Housing Authority may absorb an incoming portable family into its own program when the receiving Housing Authority executes a HAP contract on behalf of the family or at any time thereafter providing that the receiving Housing Authority has funding available under its annual contributions contract ("ACC"). [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving Housing Authority absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving Housing Authority. [24 CFR 982.201(b)(2)(vii)].

If the receiving Housing Authority absorbs a family after providing assistance for the family under a billing arrangement with the initial Housing Authority, the receiving Housing Authority must send an updated form HUD-52665 to the initial Housing Authority no later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2016-09].

If the VHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the VHA will notify the initial Housing Authority by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the VHA decides to absorb a family after that, it will make every reasonable effort to provide the initial Housing Authority with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

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Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving Housing Authority's voucher program (24 CFR 982.355(d), and the receiving Housing Authority becomes the initial Housing Authority in any subsequent moves by the family under portability. [24 CFR 982.355(e)(4)].

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Chapter 11

REEXAMINATIONS

INTRODUCTION

The VHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and VHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this Plan, apply to both annual and interim reexaminations.

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PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The VHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits Housing Authorities to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the VHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The VHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the VHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

The VHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The VHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the VHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the VHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The VHA must ensure that the annual reexamination for each family is completed *within* a 12month period, and may require reexaminations more frequently. [HCV GB p. 12-1].

The VHA will typically begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the VHA will schedule annual reexamination effective dates to coincide with the family's anniversary date. The VHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

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Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

Notification of and Participation in the Annual Reexamination Process

The VHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the VHA. However, Housing Authorities should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time. [Notice PIH 2009-36].

Families are required to participate in an annual reexamination interview, which must be attended by the head of household or cohead, and typically including all household members age 18 and older at the time of the family's appointment date. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the VHA to request a reasonable accommodation (see Chapter 2). A reasonable accommodation may include: the allowance of mail recertifications; the selection of a designated proxy to act on behalf of the family; authorization provided to a live-in aide to complete the process on the family's behalf. All authorized persons must be identified on HUD Form 92006.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family must contact the VHA in advance of the interview to reschedule the appointment. If a family does not attend the scheduled interview, the VHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without VHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file as identified in HUD Form 92006.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the VHA may execute a certification attesting to the role and the assistance provided by any such third party.

11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the VHA regarding the family's income, expenses, and family composition. [24 CFR 982.551(b)].

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a VHA designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition. All adult members living in the housing unit must sign the required forms.

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Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension in writing. If the reexamination process is delayed due to the family's inability to provide the required documents, the VHA may still apply the change effective on the due date of the annual reexamination retroactively or with less than 30 day notice to the family of any increase in the family's share of rent.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations Housing Authorities ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28], and the VHA will ask this question at the annual reexamination.

If the VHA proposes to terminate assistance based on lifetime sex offender registration information, the VHA must notify the household of the proposed action and must provide the subject of the record and the head of household a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the VHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms. [24 CFR 982.403].

11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving

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HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents or is considered a *vulnerable youth* in accordance with VHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

During the annual reexamination process, the VHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Chapter 12. If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the VHA will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

The VHA must establish policies concerning the effective date of changes that result from an annual reexamination. [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period. If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and 30-day notice is not required.

If the VHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the VHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date. If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract, and 30-day notice is not required.

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If the VHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the VHA.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the VHA by the date specified, and this delay prevents the VHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and VHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the VHA must process interim reexaminations to reflect those changes. HUD regulations also permit the VHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted. [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The VHA will complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and VHA policies describing what changes families are required to report, what changes families may choose to report, and how the VHA will process both VHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The VHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the VHA has limited discretion in this area.

The VHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members <u>Not</u> Requiring VHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require VHA approval. However, the family is required to promptly notify the VHA of the addition. [24 CFR 982.551(h)(2)]. VHA policy requires that the family must inform the VHA of the birth, adoption, or court-awarded custody of a child within 10 business days, and complete the New Member to the Family Composition form.

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court awarded custody, a family must request VHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child). [24 CFR 982.551(h)(4)].

When any new family member is added, the VHA will conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination. [24 CFR 982.516(e)(2)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the VHA must issue the family a new voucher, and the family and the VHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the VHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

Families must request VHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or 30 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the VHA prior to the individual moving into the unit.

The VHA will not approve the addition of a new family or household member unless the individual meets the VHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

If the VHA determines an individual meets the VHA's eligibility criteria and documentation requirements, the VHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the VHA determines that an individual does not meet the VHA's eligibility criteria or documentation requirements, the VHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The VHA will make its determination promptly after receiving all information required to verify the individual's eligibility unless there are extenuating circumstances that may require an extended period of review.

Departure of a Family or Household Member

Families must promptly notify the VHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the VHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

VHA policy requires that the family must inform the VHA within 10 business days, and complete a Remove Household Member from the Family Composition Form. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

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11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the VHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the VHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

VHA-Initiated Interim Reexaminations

VHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the VHA. They are not scheduled because of changes reported by the family.

The VHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the VHA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.
- If the family has reported zero income, the VHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the VHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the VHA will conduct an interim reexamination if the verification shows a significant difference from the amount declared by the family. For purposes of this section, significant difference is defined as $500 or more per month.

The VHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The VHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

As permitted by HUD regulations, the VHA requires families to report all increases in the same source of income of $500 or more per month for all family members regardless of age, or new income from any source, within 30 calendar days of the date the change takes effect. An interim reexamination will be processed unless the family's annual reexamination is scheduled within the next 60 days.

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Families reporting zero household income will be required to report any increase in income, regardless of the amount.

The VHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's share of rent will change as a result of the increase. In all other cases, the VHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The VHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report (e.g. an increase of less than $500 per month) and that would result in an increase in the family share of the rent, the VHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the VHA will conduct an interim reexamination.

Families may report changes in income or expenses at any time.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify the VHA of changes in writing. No changes will be accepted over the phone.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the VHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the VHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the VHA. This time frame may be extended for good cause with VHA approval. However, no changes will be processed without the appropriate documentation. The VHA will accept required documentation by mail, by fax, or in person, and through the VHA's Assistance Check system.

Effective Dates

The VHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in

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the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The VHA may calculate any overpaid subsidy, and send a debt notification to the family. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

- Income changes submitted by the 10th of each month with the Change In Income/Remove Family Member form, and all required supporting documents, may be effective on the first of the following month.
- Income changes submitted after the 10th or without all required supporting documents will be processed effective the first day of the month following the month in which the change was reported and all required documentation was submitted.

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PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the VHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the VHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the VHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the VHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, during the term of a HAP contract, the VHA is not required to reduce the payment standard as long as the HAP contract remains in effect. At the family's *second annual* reexamination, the VHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the VHA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the VHA's subsidy standards

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(see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size using the current payment standard schedule. The requirement to delay implementation of a decreased payment standard until the second annual reexamination following the effective date of the decrease in the payment standard does not apply. **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the VHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the VHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the VHA must use the VHA current utility allowance schedule [24 CFR 982.517(d)(2)] and will apply it to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The VHA will notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice will include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family will be given an opportunity for an informal hearing regarding the VHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16) when requested.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the VHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the VHA may discover errors made by the VHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

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Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a Housing Authority can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the VHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the VHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the VHA may consider in lieu of termination, the criteria the VHA will use when deciding what action to take, and the steps the VHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

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PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the VHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the VHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the VHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the VHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the VHA of the change and request an interim reexamination before the expiration of the 180-day period. If no change is reported, the family's participation in the HCV program will end.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the VHA terminate housing assistance payments on behalf of the family at any time. The request to terminate assistance should be made in writing and signed by the head of household, and spouse or co-head of household if applicable. Before terminating the family's assistance, the VHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the VHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The VHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violations of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, the VHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. Upon consideration of such alternatives and factors, the VHA may, on a case by-case basis, choose not to terminate assistance.

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Serious and repeated lease violations will include, but not be limited to, unauthorized occupants, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, sexual or domestic abuse, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The VHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)] The VHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the VHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]

The VHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, as permitted by HUD regulations, the VHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period not to exceed 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency as determined by the VHA, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The VHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should the VHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the VHA must immediately terminate assistance for the household member.

In this situation, the VHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the VHA must terminate assistance for the household.

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Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the VHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and VHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The VHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the VHA to establish policies that permit the VHA to terminate assistance if the VHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

The VHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The VHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

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The VHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol. A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the VHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the VHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the US Controlled Substances Act. (21 U.S.C. 802).

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

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.

The VHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The VHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the VHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the VHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance
[24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits the VHA to terminate assistance under a number of other circumstances. It is left to the discretion of the VHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence Against Women Act of 2013 explicitly prohibits Housing Authorities from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

The VHA **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

The VHA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program.

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- Any family member has been evicted from federally-assisted housing in the last five years.
- Any Housing Authority has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any Housing Authority in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any Housing Authority for amounts the Housing Authority paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the VHA.
- A family member has engaged in or threatened violent or abusive behavior toward VHA personnel.
    - *Abusive or violent behavior towards VHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, slang, or other language, written or oral, or profane gestures, which are customarily used to intimidate will be considered abusive or violent behavior. *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

A family with a member who has threatened violence or exhibited abusive behavior toward VHA personnel may first receive a warning letter, depending upon the severity of the behavior, explaining that any future threats will result in termination. A second occurrence of violence or the exhibiting of abusive behavior towards VHA staff, after receiving a warning letter, will result in the VHA determining that the family member has established a pattern of exhibiting threatening and/or violent and abusive behavior, and the family's participation in the HCV program will be terminated. If the behavior is severe, no warning will be issued and the family's participation will be terminated.

In making its decision to terminate assistance, the VHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the VHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. As required by HUD, the VHA will establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit. If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with this Plan.

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Insufficient Funding [24 CFR 982.454]

The VHA may terminate HAP contracts if the VHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The VHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in this Plan. If the VHA determines there is a shortage of funding, prior to terminating any HAP contracts, the VHA will determine if any other actions can be taken to reduce program costs.

In the event that the VHA decides to stop issuing vouchers as a result of a funding shortfall, and the VHA is not assisting the required number of special purpose vouchers (e.g. HUD Veterans Affairs Supportive Housing (VASH) families), when the VHA resumes issuing vouchers, the VHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the VHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the VHA will inform the local HUD field office. The VHA will terminate the minimum number needed in order to reduce HAP costs to a level within the VHA's annual budget authority.

If the VHA must terminate HAP contracts due to insufficient funding, the VHA will do so in accordance with the following criteria and instructions:

- The VHA will first terminate families who have been on the HCV Program the longest and have income. If this does not provide the necessary reduction in HAP, the VHA will then consider families who have been on the program the longest and have no income.
- Elderly and disabled families may be exempt.
- Families comprising the required number of special purpose vouchers will be the last to be terminated.

Veterans Affairs Supportive Housing (VASH) Vouchers (VA Handbook 1162.05 Paragraph 17)

Veterans admitted to the VASH program who are not willing to participate in their recovery can have the program terminated by the VA case manager, jeopardizing the Voucher as it is tied to Case Management. If VA terminates supportive services to a VASH recipient, the VHA will terminate assistance to that participant, pursuant to their rights to an Informal Hearing.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The VHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations

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give the VHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the VHA may choose to take when it has discretion and outlines the criteria the VHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the VHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

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

- Terminating housing assistance payments under a current HAP contract, or Homeownership option
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the VHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit. [24 CFR 982.552(c)(2)(ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon VHA request.

Repayment of Family Debts

If a family owes amounts to the VHA, as a condition of continued assistance, the VHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the VHA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the VHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

The VHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

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The VHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

The VHA will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future
- While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the VHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The VHA may also consider:
    - Any statements made by witnesses or the participant not included in the police report
    - Whether criminal charges were filed. Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
    - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

  The VHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family. When a false certification is signed by the family, or otherwise provides false information to the VHA or knowingly fails to report information to the VHA, the VHA will terminate assistance based on program fraud.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

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If the family includes a person with disabilities, the VHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

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

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements, key VAWA definitions, and VHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a Housing Authority may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the VHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit. [24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim. [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking. [24 CFR 5.2005(c)(2)].

Fourth, it gives Housing Authorities the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence. [24 CFR 5.2009(a)].

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Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a Housing Authority to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the VHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a Housing Authority to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the VHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that is: (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm. [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur. [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize the VHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat." [24 CFR 5.2005(d)(3)].

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the VHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

  If the participant wishes to contest the VHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, the VHA will

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request that the individual provide documentation supporting the claim as permitted by HUD regulations. The VHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the VHA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the VHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the VHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the VHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family. [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

The VHA will terminate assistance to a family member if the VHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the VHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the VHA by the victim in accordance with this Plan. Upon such consideration, the VHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the VHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require Housing Authorities to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

Generally when a family's assistance will be terminated, the VHA will send a written notice of termination to the family and to the owner. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other VHA policies, or the circumstances surrounding the termination require. For example, if a family vacates the unit without informing the VHA, 30-day notice will be not be given. In these cases, the notice to terminate will be sent at the time the VHA learns the family has vacated the unit and will be effective the date the family vacated the unit.

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When the VHA notifies an owner that a family's assistance will be terminated, the VHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the VHA sends to the family will meet the additional HUD and VHA notice requirements discussed in this Plan. VAWA 2013 expands notification requirements to require Housing Authority to provide notice of VAWA rights and the HUD 5382 form when a Housing Authority terminates a family's housing benefits.

Whenever the VHA decides to terminate a family's assistance because of the family's action or failure to act, the VHA will include in its termination notice the VAWA information in this Plan and a form HUD-5382. The VHA will request in writing that a family member wishing to claim protection under VAWA notify the VHA within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the VHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].

- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

Under the Homeownership Program, there is no HAP contract. As a courtesy, if applicable, the VHA will provide the same notice of pending termination to the mortgage holder(s) as it would to a landlord.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the VHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

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During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the VHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person* - meaning any member of the household, a guest, or another person under the tenant's control - commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises

- Any violent criminal activity on or near the premises

- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

- Violating a condition of probation or parole imposed under federal or state law.

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The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the VHA a copy of any

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eviction notice at the same time the owner notifies the family. The family is also required to give the VHA a copy of any eviction notice (see Chapter 5).

If the eviction action is finalized in court, the owner must provide the VHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy
- The extent of participation by the leaseholder in the offending action
- The effect of termination of tenancy on household members not involved in the offending activity
- The demand for assisted housing by families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action
- The effect of the owner's action on the integrity of the program

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence Against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

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12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the VHA has no other grounds for termination of assistance, the VHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the VHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the VHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
    - Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit. Damages in excess of the security deposit may lead to termination of assistance. Families will not be terminated for damages in excess of normal wear and tear unless the landlord can demonstrate that he/she has complied with the mandatory walk through process in CA Civil Code 1950.5(f).
- The family must allow the VHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.
    - The VHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.
    - Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was the fault of the tenant or guests. The family must notify the VHA and the owner before moving out of the unit or terminating the lease.

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- The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the VHA at the same time the owner is notified.

- The family must promptly give the VHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
    - The family must not allow non- household members to use their address. Families understand that only persons listed on the lease/rental agreement and approved by the VHA may use the assisted residence as a mailing address, or as the address on their California Driver License or California Identification card.
- The composition of the assisted family residing in the unit must be approved by the VHA. The family must promptly notify the VHA in writing of the birth, adoption, or court awarded custody of a child. The family must request VHA approval to add any other family member as an occupant of the unit.
    - The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The VHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The family must promptly notify the VHA in writing if any family member no longer lives in the unit.
- If the VHA has given approval, a foster child or a live-in aide may reside in the unit. The VHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when VHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.
    - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the VHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the VHA when the family is absent from the unit.
    - Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the VHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

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- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See the sections earlier in this Chapter for HUD and VHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See the sections earlier in this Chapter for a discussion of HUD and VHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the VHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Homeownership Family Obligations

For family obligations as they apply to the Homeownership Program, see Chapter 15.

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Chapter 13

OWNERS

INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program. [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party, [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the VHA's HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the VHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including VHA policies in key areas, owners will need to refer to several other chapters in this Plan. Where appropriate, Chapter 13 will reference the other chapters.

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PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

The VHA is responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the VHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the VHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the VHA's jurisdiction, are willing to participate in the HCV program. To accomplish this objective, the VHA must identify and recruit new owners to participate in the program.

The VHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The VHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners and real estate brokers associations

  Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the VHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All VHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The VHA may provide owners with a handbook that explains the program, including HUD and VHA policies and procedures, in easy-to-understand language.

The VHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated VHA contact person
- Coordinating inspection and leasing activities between the VHA, the owner, and the family
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards, upon request

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- Providing other written information about how the program operates, including answers to frequently asked questions, upon request
- Additional services may be undertaken on an as-needed basis, and as resources permit

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

The VHA will assist families in their housing search by providing the family with a list of landlords or other parties known to the VHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the VHA cannot maintain a list of owners who are prequalified to participate in the program, owners may indicate to the VHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

Owners who wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit may notify the VHA or go directly to www.GoSection8.com. The VHA utilizes GoSection8.com to maintain a listing of interested owners and provides this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The VHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing to rent to the family, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the VHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641A). See Chapter 9 for more detail on Request for Tenancy Approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy. The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See Chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The VHA will inspect the owner's dwelling unit at least every 24 months to ensure that the unit continues to meet HQS

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requirements. See Chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The VHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the VHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-forword to the owner's lease. The preferred method to achieve this is for the owner to indicate on the lease under other terms and conditions that the HUD Tenancy Addendum is included in the lease. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The VHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See Chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the VHA information required under the HAP contract Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]

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- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV

  family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

13-I.D. OWNER QUALIFICATIONS

The VHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the VHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The VHA must not approve the assisted tenancy if the VHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the VHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The VHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The VHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The VHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the VHA (except a participant commissioner)
- Any employee of the VHA, or any contractor, subcontractor or agent of the VHA, who formulates policy or who influences decisions with respect to the programs Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The VHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the VHA will include the requirements outlined in the HCV Guidebook.

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Where the VHA has requested a conflict of interest waiver, the VHA may not execute the HAP contract until HUD has made a decision on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the VHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the VHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the VHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

The VHA will refuse to approve a request for tenancy if the VHA becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f)
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- The owner has engaged in any drug-related criminal activity or any violent criminal activity
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of the VHA, or of owner employees or other persons engaged in management of the housing; (iii) 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 (iv) Is drug-related criminal activity or violent criminal activity
- The owner has a history or practice of renting units that fail to meet state or local housing codes
- The owner has not paid state or local real estate taxes, fines, or assessment

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In considering whether to disapprove owners for any of the discretionary reasons listed above, the VHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the VHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The VHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year). If the owner contracts with a property manager to administer the unit on the owner's behalf, the VHA will also require a copy of the management agreement.

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the VHA.

The owner must cooperate with the VHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the VHA.

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PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the VHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the VHA's obligations. Under the HAP contract, the VHA agrees to make housing assistance payments to the owner on behalf of the family approved by the VHA to occupy the unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See Chapter 15 for a discussion of any special housing types included in the VHA's HCV program.

When the VHA has determined that the unit meets program requirements and the tenancy is approvable, the VHA and the owner must execute the HAP contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: the name of the tenant and all approved household members, the address of the contract unit, start and end dates of the initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the VHA representative and the owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, the VHA does have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. VHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

The VHA also has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the VHA is deemed received by the owner (e.g., upon mailing by the VHA or actual receipt by the owner).

The VHA has adopted a policy that states the Housing Assistance Payment is deemed received by the owner upon mailing by the VHA. The VHA encourages owners to accept direct deposit of payments.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

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- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- VHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- VHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the VHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the VHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The VHA will notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the VHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the VHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in

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excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the VHA, the excess amount must be returned immediately. If the VHA determines that the owner is not entitled to all or a portion of the HAP, the VHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the VHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The VHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the VHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent. The late payment penalty charged to the VHA may not exceed the amount that would be charged to the family for a late payment according to the lease.

The VHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the VHA's control. In addition, late payment penalties are not required if the VHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The VHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

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HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the VHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The owner must inform the VHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the VHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the VHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the VHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the VHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:
If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS

- If the owner has violated any obligation under any other HAP contract under Section 8
If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the VHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract. This includes recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, and termination of the payment or termination of the HAP contract. The VHA may also obtain additional relief by judicial order or action.

The VHA will notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The VHA will provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

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Before the VHA invokes a remedy against an owner, the VHA will evaluate all information and documents available to determine if the contract has been breached. If relevant, the VHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the VHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease
- The lease expires
- The VHA terminates the HAP contract
- The VHA terminates assistance for the family
- The family moves from the assisted unit. In this situation, the HAP to owner will be prorated.
- 180 calendar days have elapsed since the VHA made the last housing assistance payment to the owner
- The family is absent from the unit for longer than the maximum period permitted by the VHA
- The Annual Contributions Contract (ACC) between the VHA and HUD expires The VHA elects to terminate the HAP contract, under the following situations:
    - Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454]
    - The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8
    - The unit does not meet HQS [24 CFR 982.404] – see Chapter 8
    - The family breaks up [HUD Form 52641] – see Chapter 3 o The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the VHA terminates the HAP contract, the VHA will give the owner and the family written notice. The notice will specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

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In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the VHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the VHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the VHA.

An owner under a HAP contract must notify the VHA in writing prior to a change in the legal ownership of the unit. The VHA will inform owners of requirements to change ownership for a unit under HAP contract. The owner must supply all information as requested by the VHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the VHA finds acceptable. The new owner must provide the VHA with a copy of the executed agreement.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The VHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the VHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the VHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner
- The effective date of the HAP contract assignment
- A written agreement to comply with the terms of the HAP contract
- A certification that the new owner is not a prohibited relative

The VHA will only pay one owner at a time. If the transfer of ownership occurs in overlapping months, the existing owner will be responsible for transferring to the new owner any remaining

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HAP for the month in which ownership changes transfers. The VHA will not be responsible for any payments to the new owner prior to the first of the month following approval of the transfer of the HAP contract.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the VHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the VHA will process the leasing in accordance with the policies in Chapter 9.

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Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The VHA is committed to ensuring that subsidy funds made available to the VHA are spent in accordance with HUD requirements.

This chapter covers HUD and VHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents VHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the VHA will and may take when errors or program abuses are found.

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PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide Housing Authorities with a powerful tool for preventing errors and detecting program abuse. Housing Authorities are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. Housing Authorities are further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to Housing Authorities and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

To ensure that the VHA's HCV program is administered according to the highest ethical and legal standards, the VHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare. For purposes of this that the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

The VHA will use the following techniques:

- The VHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5
- The VHA will provide each applicant and participant with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- The VHA will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19. In addition, the VHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file
- The VHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key VHA forms and form letters that request information from a family or owner
- VHA staff will be required to review and explain the contents of all HUD- and VHArequired forms prior to requesting family member signatures
- At every regular reexamination, VHA staff will explain any changes in HUD regulations or VHA policy that affect program participants

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- The VHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid

The VHA will provide each VHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the VHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the VHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, the VHA will employ a variety of methods to detect errors and program abuse. This includes:

- The VHA routinely will use HUD and non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the VHA
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The VHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all Housing Authorities that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of VHA activities and notifies the VHA of errors and potential cases of program abuse.

The VHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the VHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The VHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the VHA Will Investigate

The VHA will review all written referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant

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investigation. In order for the VHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The VHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The VHA may investigate possible instances of error or abuse using all available VHA and public records. If necessary, the VHA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

The VHA will base its evaluation on a preponderance of the evidence collected during its investigation. See Chapter 12 for the definition of preponderance of the evidence.

For each investigation the VHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the VHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the VHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the VHA may take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, and (3) any mitigating circumstances related to the disability of a family member.

In the case of owner-caused errors or program abuse, the VHA will take into consideration (1) the seriousness of the offense, and (2) the length of time since the violation has occurred.

Notice and Appeals

The VHA will inform the relevant party in writing of its findings and remedies within a timely manner after the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the VHA determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

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Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the VHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented on the first of the month following a written 30-day notice. Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the VHA or the VHA is required to make retroactive subsidy payments to the owner depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this Plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the VHA to use incorrect information provided by a third party. When the family knowingly allows the VHA to use incorrect information, it will be considered program fraud.

Family Reimbursement to VHA [HCV GB pp. 22-12 to 22-13]

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The VHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the VHA will terminate the family's assistance in accordance with the policies in Chapter 12.

VHA Reimbursement to Family [HCV GB p. 22-12]

The VHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the VHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the VHA for rent, security deposit, and additional services

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- Offering bribes or illegal gratuities to the VHA Board of Commissioners, employees, contractors, or other VHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the VHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The VHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the VHA may, at its discretion, impose any of the following remedies.

- The VHA may require the family to repay excess subsidy amounts paid by the VHA, as described earlier in this section
- The VHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit
- The VHA may deny or terminate the family's assistance following the policies set forth in this Plan
- The VHA will permanently deny assistance to anyone whose previous participation in the HCV program was terminated due to program abuse
- The VHA may refer the family for state or federal criminal prosecution as described in section 14-II.E

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this Plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the VHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the VHA any excess subsidy received. As permitted by HUD regulations, in cases where the owner has received excess subsidy, the VHA will require the owner to repay the amount owed within 15

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days. If the debt is not paid within 15 days, the VHA will deduct the amount from future HAP payments. If the owner is not entitled to future HAP, the debt will be referred to a collection agency, or to the Franchise Tax Board for recoupment. Future participation as an owner may be denied if the debt is not repaid, or if there is a pattern of owner abuse.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the VHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including: Any of the following will be considered evidence of owner program abuse:
    - Charging the family rent above or below the amount specified by the VHA o Charging a security deposit other than that permitted by state law
    - Charging the family for services that are provided to unassisted tenants at no extra charge
    - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit and the HAP contract has been terminated
    - Knowingly accepting incorrect or excess housing assistance payments o Offering bribes or illegal gratuities to the VHA Board of Commissioners, employees, contractors, or other VHA representatives
    - Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the VHA
    - Residing in the unit with an assisted family
    - Actively soliciting HCV families on the VHA's premises

Remedies and Penalties

When the VHA determines that the owner has committed program abuse, the VHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section
- Terminate the HAP contract
- Bar the owner from future participation in any VHA programs
- Refer the case to state or federal officials for criminal prosecution

14-II.D. VHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of VHA staff with respect to normal program administration are discussed throughout this Plan. This section specifically addresses actions of a VHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct are provided in the VHA personnel policy.

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VHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the VHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by VHA staff [HCV GB. 22-12].

VHA Reimbursement to Family or Owner

The VHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse.

Prohibited Activities

Any of the following will be considered evidence of program abuse by VHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the VHA
- Disclosing confidential or proprietary information to outside parties without authorization of the family
- Gaining profit as a result of insider knowledge of VHA activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

When the VHA determines that program abuse by an owner, family, or VHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the VHA may refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program may be referred to the appropriate local, state, or federal entity.

14-II.F . FRAUD AND PROGRAM ABUSE RECOVERIES

The VHA may retain a portion of program fraud losses that the VHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

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The VHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the VHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement; or
- Reasonable and necessary costs that the VHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family will be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the VHA related to the collection, these costs must be deducted from the amount retained by the VHA.

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Chapter 15

SPECIAL HOUSING TYPES [24 CFR 982 Subpart M]

INTRODUCTION

The VHA may permit a family to use any of the special housing types discussed in this chapter. However, the VHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that Housing Authorities must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The VHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership. [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

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When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the VHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

  Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

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PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the VHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The VHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the VHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the VHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

- Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.
- The housing quality standards applicable to lead-based paint do not apply.

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PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the VHA, a live-in aide may live in the group home with a person with disabilities. The VHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the VHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the VHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

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HQS requirements apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:

    o*Dangerous walks or steps.

    *Instability,

    *Flooding orpoor drainage

    *Septic tank back-ups

    o*Sewage hazards

    o*Mud slides

    o*Abnormal air pollution

    * Smoke or dust

    o*Excessive noise

    o*Vibrations or vehicular traffic

    o*Excessive accumulations of trash

    o*Vermin or rodent infestation, and

    o*Fire hazards

The housing quality standards applicable to lead-based paint do not apply.

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April 2017

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the VHA, a live-in aide may reside with the family to care for a person with disabilities. The VHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the prorata share of the utility allowance for the shared housing unit.

> **Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.
>
> The utility allowance for a 4-bedroom unit equals $200
>
> The utility allowance for a 2-bedroom unit equals $100
>
> The prorata share of the utility allowance is $150 (3/4 of $200) The VHA will use the 2-bedroom utility allowance of $100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the

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pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the VHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The VHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero-bedroom or one-bedroom unit may not be used for shared housing.

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PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI: MANUFACTURED HOMES

24 CFR 982.620 through 982.624; FR Notice 1/18/17]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the VHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well

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as certain other housing expenses. Housing Authorities may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The VHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the VHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The VHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the VHA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

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Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the VHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The VHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

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PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The VHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, Housing Authorities may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

The VHA will offer homeownership assistance only to families successfully graduating from its Family Self-Sufficiency program.

In addition, the VHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the VHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The VHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The VHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the VHA has otherwise opted not to implement a homeownership program.

The VHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The VHA may also establish additional initial requirements as long as they are described in the VHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program
- The family must have successfully graduated from the VHA's Family Self-Sufficiency program
- The family have completed at least one regularly scheduled annual reexamination in the VHA's jurisdiction
- The family must qualify as a first-time homeowner, or may be a cooperative member
    - No member of the household may have any interest or ownership in a residence during the three years before applying for homeownership assistance or at the commencement of participation in the HOP.

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- Single parents or displaced homemakers (as those terms are defined in 12 U.S.C. 12713) who owned a home while married or resided in a home owned by a spouse also qualify as first-time homebuyers.
- Families with a disabled family member may request approval for a waiver of the first time homebuyer requirement if required as a reasonable accommodation for a disability.

- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000 (hours), based on the income of adult family members who will hold title to the home. The VHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the VHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the VHA must grant an exemption from the employment requirement if the VHA determines that it is needed as a reasonable accommodation
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

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- The family must demonstrate the ability to provide a minimum of three percent (3%) down payment on the home.
    - At least one percent (1%) of this down payment must come from the family's personal resources. FSS graduates may use FSS escrow towards this requirement. Families with an Individual Development Account (IDA) or an Individual Development Empowerment Account (IDEA) through the VHA or another agency may count these funds towards the minimum down payment.
    - The minimum down payment requirement may be waived for families with a disabled family member, if they qualify for special loan products offered by the lender.
- The family must have completed an initial HCV lease term and completed the family's first annual recertification in the HCV Program at the VHA.
- The family must verify that no family member has previously defaulted on a mortgage assisted under the HCV homeownership program.
- The head of household and any other adult members that will hold title to the home must successfully complete a HUD-approved homeownership and housing counseling program approved in advance by the VHA.
- Family members may not owe any debt to the VHA or another housing authority.
- The family must maintain a good tenant standing with its landlord and the VHA. This includes, but is not limited to:
    - Be in compliance with HUD Family Obligations under the HCV Program;
    - Adhering to the requirements of the lease agreement;
    - No outstanding debts to the landlord or to any utility company;
    - Report all Household income; and
    - Passing the most recent Housing Quality Standards (HQS) inspection with no significant tenant-caused failure items.

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the VHA will limit homeownership assistance to families or purposes defined by the VHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in this Plan.

The total number of HCV Homeownership Vouchers issued will be limited to no more than ten percent (10%) of the total number of Housing Choice Vouchers administered by the VHA.

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However, the VHA reserves the right to stop accepting new participants into the Homeownership Program at any time, without further notice.

If the VHA limits the number of families that may participate in the homeownership option, the VHA must establish a system by which to select families to participate.

Homeownership assistance is available to successful graduates of the VHA's Family Self Sufficiency (FSS) Program, and disabled participants of the HCV Program if necessary as a reasonable accommodation.

Qualified participants are defined as participants who meet all VHA and HUD requirements for the HCV HOP program and have acceptable credit determined by a participating lender, no outstanding collections, or bankruptcies with a discharged date of at least 3 years prior to applying for HOP, and demonstrates the ability to secure a mortgage for the purchase of an eligible unit under the HCV HOP.

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the VHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the VHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

The VHA must not approve the unit if the VHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

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15-VII.E. ADDITIONAL VHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The VHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the VHA, the VHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher. Once approved for homeownership assistance, the family will be issued a letter of eligibility subject to the following requirements:

- The family must execute a statement in which the family agrees to comply with all family obligations under the Homeownership Option.

- The VHA will allow the family a period of 180 days upon receipt of the letter of eligibility to execute a purchase agreement.

- The VHA may require families unable to locate a suitable unit during the term of the Voucher to wait for a period of one year to re-apply for homeownership assistance. If the VHA is not granting homeownership assistance at that time, the family will have to wait to re-apply until the next time the HOP is open.

- The VHA may grant an extension due to extenuating circumstances. Extensions will be granted at the discretion of the VHA. An additional 60 days may be given as a reasonable accommodation for a person with disabilities.

- The family must employ a licensed State of California, Department of Real Estate agent to assist with the search and purchase of a home on their behalf. The VHA may verify agent is in good standing with the State of California.

- The family must report its progress towards locating and purchasing a unit if requested by the VHA.

- If the family is unable to locate an acceptable unit for purchase during the term of the HOP Voucher, the VHA may, at its discretion, issue the family a Voucher for rental assistance.

- If the family submits a contract of sale to the VHA that is not approved due to reasons other than the family's lack of compliance, the VHA will add back the number of days to the Voucher that it took to review the contract (known as "tolling" days).

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program

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required by the VHA. HUD suggests the following topics for the VHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds)
- Budgeting and money management
- Credit counseling
- How to negotiate the purchase price of a home
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing
- How to find a home, including information about homeownership opportunities, schools, and transportation in the VHA jurisdiction
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions

The VHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The VHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the VHA offers a program of ongoing counseling for participants in the homeownership option, the VHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the VHA does not use a HUD-approved housing counseling agency to provide the counseling, the VHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND VHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The VHA may not commence monthly homeownership assistance payments for a family until the VHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing,

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electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The VHA will not require the family to use an independent inspector selected by the VHA. The independent inspector may not be a VHA employee or contractor, or other person under control of the VHA. However, the VHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The VHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the VHA a copy of the contract of sale. The contract of sale must:

 Specify the price and other terms of sale by the seller to the purchaser;

- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs;
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24; and
- Provide that the buyer is not required to complete the purchase and will face no penalties if the VHA does not approve the purchase for any reason.

The sale price of the home must be affordable to the family, as determined by the VHA and the Lender. The price shall be considered affordable if the monthly homeownership expenses (principal, interest, taxes and insurance), including those for any second mortgages, plus the monthly utility allowance applicable to the unit, plus the monthly homeownership allowance applicable to the unit do not exceed 40% of the family's monthly gross income.

Disapproval of a Seller

In its administrative discretion, the VHA may deny approval of a seller for the same reasons a Housing Authority may disapprove an owner under the regular HCV program. [See 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The VHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The VHA must establish policies describing these requirements in the Administrative Plan. As permitted by HUD, the VHA requires the family to

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allow the VHA to review the terms of the mortgage secured to purchase the property before close of escrow. The VHA may disapprove proposed financing, refinancing or other debt if the VHA determines that the debt is unaffordable to the family or if the VHA determines that the lender or the loan terms do not meet VHA or HUD qualifications. The family must locate and qualify for a mortgage that meets the following requirements:

- The mortgage must be determined to be affordable by the VHA. The VHA may take into account child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the VHA to determine affordability of the family's share of the housing costs. The family's portion of the monthly homeownership expenses may not exceed forty percent (40%) of the family's total monthly gross income.

- Short-term first mortgages with a large final "balloon payment" will not be allowed.

- Adjustable mortgages with an interest rate that adjusts more than five percent (5%) over the life of the loan, more than one percent (1%) in any one year, or adjusts more often than once per year will not be allowed.

- Interest only mortgages will not be allowed.

- The VHA will not consider approve any seller financed mortgages.

- The family may not obtain private first mortgage financing from a family member or any other private source.

- The mortgage must be provided, insured, or guaranteed by the state or Federal government and comply with secondary mortgage market underwriting standards; or the mortgage must comply with generally accepted private sector underwriting standards.

The VHA will not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the VHA may not continue homeownership assistance after the month when the family moves out. The lender is not required to refund to the VHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

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- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i)
- The family must supply information to the VHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the VHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses
- The family must notify the VHA before moving out of the home
- The family must notify the VHA if the family defaults on the mortgage used to purchase the home
- No family member may have any ownership interest in any other residential property
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j)

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer
- Ten years, in all other cases

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

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If the family has received such assistance for different homes, or from different Housing Authorities, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the VHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this Plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The VHA will pay the homeownership assistance payments directly to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the VHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, the VHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The VHA must adopt policies for determining the amount of homeownership expenses to be allowed by the VHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the VHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home
- Real estate taxes and public assessments on the home
- Home insurance
- The VHA allowance for maintenance expenses
- The VHA allowance for costs of major repairs and replacements
- The VHA utility allowance for the home
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the VHA determines that allowance of such

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costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person

- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)]
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association

Homeownership expenses for a cooperative member may only include amounts allowed by the VHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt
- Home insurance
- The VHA allowance for maintenance expenses
- The VHA allowance for costs of major repairs and replacements
- The VHA utility allowance for the home
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the VHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and VHA policies, a family may exercise portability if the receiving Housing Authority is administering a voucher homeownership program and accepting new homeownership families. The receiving Housing Authority may absorb the family into its voucher program, or bill the initial Housing Authority.

The family must attend the briefing and counseling sessions required by the receiving Housing Authority. The receiving Housing Authority will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving Housing Authority must promptly notify the initial Housing Authority if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the VHA.

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The VHA will only accept successful graduates of its Family Self-Sufficiency program into its homeownership program, or people with disabilities as a reasonable accommodation as described earlier in this Chapter.

Any disabled families exercising portability into the VHA's jurisdiction desiring to use the Homeownership program must complete at least one full annual reexamination cycle within the VHA's jurisdiction before being eligible for the VHA's program

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance.
The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The VHA may deny permission to move to a new unit with continued voucher assistance:

- If the VHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the VHA's policy regarding number of moves within a 12-month period The VHA must deny the family permission to move to a new unit with continued voucher rental assistance if:
- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the VHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The VHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

The VHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

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Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the VHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the VHA. This part describes policies for recovery of monies that the VHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the VHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a Housing Authority.

Part VI: Record-Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and participants and record retention policies the VHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the VHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the VHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The VHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a VHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for "other housing purposes permitted by state and local law," in accordance with 24 CFR 982.155(b)(1).

If the VHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the VHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the VHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the VHA's Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the VHA to adapt the program to local conditions. This part discusses how the VHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards,* which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances,* which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in the VHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The VHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the VHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the VHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The VHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the VHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the VHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the VHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the VHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the VHA to make further adjustments if it determines that rent burdens for assisted families in the VHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

The VHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the

payment standards are always within the "basic range" the VHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability**: The VHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The VHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
- **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the VHA will consider increasing the payment standard. In evaluating rent burdens, the VHA will not include families renting a larger unit than their family unit size.
- **Quality of Units Selected**: The VHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
- **Changes in Rent to Owner**: The VHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.
- **Unit Availability:** The VHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.
- **Lease-up Time and Success Rate**: The VHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be determined based on the most recent FMRs released by HUD. The effective date will depend upon when the new FMRs are released.

In general, the new payment standards will take effect immediately for new units, new leases, and HAP contracts. For reexaminations, the new payment standards will take effect for the month in which reexaminations have not yet been completed.

If the payment standards decrease, the VHA will implement the decrease as discussed in Chapter 11 of this Plan.

Exception Payment Standards [982.503(c)]

The VHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area; noted by zip code. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any Housing Authority with jurisdiction in the exception area may use the HUD-approved exception

payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area. And the exception is to be applied uniformly throughout the zip code area. The exception amount must meet a reasonable test.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to the VHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the VHA's payment standard schedule.

When needed as a reasonable accommodation, the VHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The VHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the VHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the VHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the VHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the VHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The VHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The VHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the VHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the VHA's jurisdiction within the FMR area.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

The VHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the

family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A VHA-established utility allowance schedule is used in determining family share and VHA subsidy. The VHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined 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. In developing the schedule, the VHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the VHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the VHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

The VHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the VHA will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require the VHA to approve a utility allowance amount higher than shown on the VHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the VHA will approve an allowance for air-conditioning, even if the VHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The VHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The VHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the VHA that may adversely affect them. VHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of VHA decisions is called the "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing." Housing Authorities are required to include informal review procedures for applicants and informal hearing procedures for participants in their Administrative Plans. [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

Decisions Subject to Informal Review

The VHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the VHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

VHA informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the VHA
- General policy issues or class grievances
- A determination of the family unit size under the VHA subsidy standards
- A VHA determination not to approve an extension or suspension of a voucher term
- A VHA determination not to grant approval of the tenancy
- A VHA determination that the unit is not in compliance with the HQS
- A VHA determination that the unit is not in accordance with the HQS due to family size or composition

The VHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the VHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

The VHA will not provide an informal review to applicants whose placement on the waiting list has changed due to a change in the families circumstances, or new information made available to the VHA, or because the family failed to complete the initial eligibility determination process.

Notice to the Applicant [24 CFR 982.554(a)]

The VHA will give an applicant prompt notice of a decision denying assistance. The notice will contain a brief statement of the reasons for the VHA decision, and will also state that the applicant may request an informal review of the decision. The notice will describe how to obtain the informal review.

Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the VHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the VHA's denial of assistance.

The VHA will schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the VHA.

Informal reviews will be conducted by the Housing and Community Development Manager, or, his/her designee.

Informal Review Decision [24 CFR 982.554(b)]

The VHA will notify the applicant of the VHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the VHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations or the VHA's Administrative Plan, then the decision to deny assistance will be overturned.
- The validity of the evidence. The VHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the VHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the VHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The VHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed in a timely manner after the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the review will not take place and the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

Housing Authorities must offer an informal hearing for certain VHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the VHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the VHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and VHA policies.

The VHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the VHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the VHA utility allowance schedule
- A determination of the family unit size under the VHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under VHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the VHA
- General policy issues or class grievances
- Establishment of the VHA schedule of utility allowances for families in the program
- A VHA determination not to approve an extension or suspension of a voucher term

- A VHA determination not to approve a unit or tenancy
- A VHA determination that a unit selected by the applicant is not in compliance with HQS
- A VHA determination that the unit is not in accordance with HQS because of family size
- A determination by the VHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

The VHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

An informal hearing will not be offered when a family's participation in the HCV program ends due to their voucher expiring prior to submitting an RTA to the VHA.

Remote Informal Hearings

The VHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be incompliance with HUD regulations.

The VHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the VHA will conduct an informal hearing remotely upon written request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The VHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Informal Hearing Procedures

Notice to the Family **[24 CFR 982.555(c)]**

When the VHA makes a decision that is subject to informal hearing procedures, the VHA will inform the family of its right to an informal hearing at the same time that it informs the family of the decision. For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the VHA will notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision. For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the VHA's subsidy standards, the notice will contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the VHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the VHA
- A brief statement of the reasons for the decision, including the regulatory reference
- The date the proposed action will take place
- A statement of the family's right to an explanation of the basis for the VHA's decision
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision
- A deadline for the family to request the informal hearing
- To whom the hearing request should be addressed
- A copy of the VHA's hearing procedures

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

When an informal hearing is required, the VHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the VHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the VHA's decision or notice to terminate assistance.

The VHA will schedule and send written notice of the informal hearing to the family in a timely manner after receipt of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the VHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and did not reschedule the hearing in advance of the hearing date, the hearing will not be held and the VHA will proceed with implementing the decision or termination. The VHA may reschedule the hearing only if the family can show good cause for the failure to appear. ***Pre-Hearing Right to Discovery*** **[24 CFR 982.555(e)]**

Participants and the VHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any VHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the VHA does not make the document available for examination on request of the family, the VHA may not rely on the document at the hearing.

The VHA hearing procedures may provide that the VHA must be given the opportunity to examine at the VHA offices before the hearing, any family documents that are directly relevant to the hearing. The VHA must be allowed to copy any such document at the VHA's expense. If the family does not make the document available for examination on request of the VHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be offered the opportunity to request an appointment to review the documents prior to the scheduled hearing date and allowed to copy any documents related to the hearing.

The VHA must be given an opportunity to examine at the VHA offices before the hearing any family documents that are directly relevant to the hearing or that the family wants to provide at the hearing. Included in the notice of hearing date will be a request for a copy of all documents the family intends to present or utilize at the hearing. The participant must make the documents available no later than 48 prior to the scheduled hearing date.

Participant's Right to Bring Counsel **[24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer **[24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the VHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision. The VHA has designated the following to serve as hearing officers:

- Managers, Supervisors and Analysts from other departments in the City of Vallejo, or other local governmental agencies
- Managers and Supervisors from other Housing Authorities
- Professional mediators or arbitrators employed by a mediation, dispute resolution, or arbitration service
- Members of commissions or groups who have received mediation and arbitration training
- Retired managers from a public agency
- VHA management, if no other qualified individuals meeting the above requirements are available

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A VHA representative(s) and any witnesses for the VHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the VHA as a reasonable accommodation for a person with a disability

For training purposes, the VHA may ask the family if VHA staff may observe the hearing.

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the VHA's hearing procedures [24 CFR 982.555(4)(ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

Evidence **[24 CFR 982.555(e)(5)]**

The VHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. The hearing officer must not do any independent research or contact either party outside of the hearing. There are four categories of evidence.

- **Oral evidence**: the testimony of witnesses
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the VHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence**: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the VHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision **[24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

- **VHA Notice to the Family**: The hearing officer will determine if the reasons for the VHA's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the VHA and the family were given the opportunity to examine any relevant documents in accordance with VHA policy.
- **VHA Evidence to Support the VHA Decision**: The evidence consists of the facts presented. Evidence is not a conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the VHA's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and VHA policies. If the grounds for termination are not

specified in the regulations or in compliance with VHA policies, then the decision of the VHA will be overturned.

The hearing officer will issue a written decision to the family and the VHA no later than 10 business days after the hearing. The report will contain the following information:

- **Hearing information:**
  - Name of the participant;
  - Date, time and place of the hearing;
  - Name of the hearing officer;
  - Name of the VHA representative;

  and
  - Name of family representative (if any)
- **Background**: A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the VHA's decision.
- **Order:** The hearing report will include a statement of whether the VHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the VHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the VHA to restore the participant's program status.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the VHA will take effect and another hearing will not be granted.

There are no further appeals through the VHA. However, the participant may pursue judicial review of the hearing officer's decision through the Code of Civil Procedure section 1094.6.

VHA Notice of Final Decision [24 CFR 982.555(f)]

The VHA is not bound by the decision of the hearing officer for matters in which the VHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the VHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the VHA must promptly notify the family of the determination and the reason for the determination.

The VHA will mail a "Notice of Final Decision" including the hearing officer's report to the participant and their representative. This notice will be sent by first-class mail, postage pre-paid, with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof of mailing will be maintained in the VHA's file.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the VHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the VHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the VHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the VHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the VHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the VHA with a copy of the written request for appeal and the proof of mailing.

The VHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the VHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form

specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the VHA, of its decision. When the USCIS notifies the VHA of the decision, the VHA must notify the family of its right to request an informal hearing.

The VHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the VHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the VHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The VHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the VHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be offered the opportunity to request an appointment to review the documents prior to the scheduled hearing date allowed to copy any documents related to the hearing at a cost of $.10 per page.

The VHA must be given an opportunity to examine at the VHA offices before the hearing any family documents that are directly relevant to the hearing or that the family wants to provide at the hearing. Included in the notice of hearing date will be a request for a copy of all documents the family intends to present or utilize at the hearing. The participant must make the documents available no later than 48 prior to the scheduled hearing date.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the VHA, and to confront and cross-examine all witnesses on whose testimony or information the VHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the VHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The VHA is not required to provide a transcript of the hearing and will not do so.

Hearing Decision

The VHA will provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision will state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the VHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the VHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The VHA must retain for a minimum of 5 years the following documents that may have been submitted to the VHA by the family, or provided to the VHA as part of the USCIS appeal or the VHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE VHA

16-IV.A. OVERVIEW

Housing Authorities are required to include in the administrative plan policies concerning repayment by a family of amounts owed to the VHA [24 CFR 982.54]. This part describes the VHA's policies for recovery of monies owed to the VHA by families or owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the VHA holds the owner or participant liable to return any overpayments to the VHA.

The VHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the VHA, the VHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

Owner Debts to the VHA

Any amount due to the VHA by an owner must be repaid by the owner within 30 days of the VHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the VHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments, the VHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the VHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the VHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the VHA

Any amount owed to the VHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the VHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the VHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

The family may not be authorized to move to a new unit with HCV assistance until the debt is paid in full.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the VHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Down Payment Requirement

Before executing a repayment agreement with a family, the VHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the VHA that a down payment of 10 percent would impose an undue hardship, the VHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that VHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

The VHA has established the following thresholds for repayment of debts:

- Amounts between $3,000 and $5,999 must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

The family must make minimum payments of amounts owed divided by the number of months allowed to pay. For example, if a family owes $2000, the VHA will require a $200 down payment (10%) and then require a payment of $1800 divided by 30 months for a total of $60.00 minimum payment due each month.

If a family can provide evidence satisfactory to the VHA that the threshold applicable to the family's debt would impose an undue hardship, the VHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the VHA will consider all relevant information, including the following:

- The amount owed by the family to the VHA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses
- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

Execution of the Agreement

Any repayment agreement between the VHA and a family must be signed and dated by the VHA and by the head of household and spouse/co-head of household (if applicable).

In the event of death of head of household, the eligible remaining cohead member must assume the debt to the VHA and must sign the existing repayment agreement in order to continue receiving rental assistance. Failure to sign the existing repayment agreement or pay the debt in full will result in termination of assistance.

The transfer of the voucher from one family member to another will not be allowed until the debt to the VHA is paid in full, or, *in its sole discretion* the VHA may allow the transfer to take place if the new head of household signs the existing repayment agreement or pays the debt in full.

Due Dates

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the VHA, the VHA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the VHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the VHA will terminate assistance in accordance with the policies in Chapter 12.

No Offer of Repayment Agreement

The VHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, if there has been a payment agreement within the last five years, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the VHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the VHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure VHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each Housing Authority as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the VHA in several ways.

- High-performing Housing Authorities can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- Housing Authorities with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- Housing Authorities with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, Housing Authorities that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a Housing Authority's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

Housing Authorities must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by the VHA board resolution and signed by the VHA executive director. If the VHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

Failure of the VHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

The VHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the VHA's SEMAP certification, HUD will rate the VHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The VHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that

those data are insufficient to verify the VHA's certification on the indicator due to the VHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A Housing Authority that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not to be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the VHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the VHA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the VHA's written policies, according to the VHA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the VHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the VHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the VHA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the VHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the VHA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the VHA maintains an up-to-date utility allowance schedule. • Points are based on whether the VHA has reviewed the utility allowance schedule and adjusted it when required, according to the VHA's certification.

Indicator 5: HQS quality control inspections
Maximum Score: 5

- This indicator shows whether a VHA supervisor reinspects a sample of units under contract during the VHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the VHA's certification.

Indicator 6: HQS enforcement
Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any VHA-approved extension.
- Points are based on whether the VHA corrects all HQS deficiencies in accordance with required time frames, according to the VHA's certification.

Indicator 7: Expanding housing opportunities
Maximum Points: 5

- Only applies to Housing Authorities with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the VHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the VHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the VHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the VHA's certification.

Indicator 8: FMR limit and payment standards
Maximum Points: 5 points

- This indicator shows whether the VHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the VHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the VHA has appropriately adopted a payment standard schedule(s), according to the VHA's certification.

Indicator 9: Annual reexaminations
Maximum Points: 10

- This indicator shows whether the VHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations
Maximum Points: 5

- This indicator shows whether the VHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections
Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections
Maximum Points: 10

- This indicator shows whether the VHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up
Maximum Points: 20 points

- This indicator shows whether the VHA enters HAP contracts for at least 98 percent of the number of the VHA's baseline voucher units in the ACC for the calendar year ending on or before the VHA's fiscal year, or whether the VHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The VHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on VHA utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances
Maximum Points: 10

- Only applies to Housing Authorities with mandatory FSS programs.
- This indicator shows whether the VHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Deconcentration Bonus Indicator
Maximum Points: 5

- Submission of data for this indicator is mandatory for a VHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full VHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to VHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The VHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the VHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the VHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the VHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting VHA budget and financial statements for the program;
- Records to document the basis for VHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

Notice PIH 2014-20 requires Housing Authorities to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

Housing Authorities must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized VHA staff.

VHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the VHA may release the information collected.

Upfront Income Verification (UIV) Records

Housing Authorities that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded
(e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

Prior to utilizing HUD's EIV system, the VHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The VHA may only disclose the criminal conviction records which the VHA receives from a law enforcement agency to officers or employees of the VHA, or to authorized representatives of the VHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The VHA must establish and implement a system of records management that ensures that any criminal record received by the VHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the VHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The VHA must establish and implement a system of records management that ensures that any sex offender registration information received by the VHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the

purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the VHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by the VHA other than under 24 CFR 5.905.

Medical/Disability Records

Housing Authorities are not permitted to inquire about the nature or extent of a person's disability. The VHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the VHA receives a verification document that provides such information, the VHA should not place this information in the tenant file. The VHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

For requirements and VHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The VHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the VHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The VHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

The VHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the VHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the VHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the VHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the VHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the VHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the VHA is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow Housing Authorities to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance. [24 CFR 982.354(e)(1) and 982.454]. If the VHA denies a family a portability move based on insufficient funding, the VHA is required to notify the local HUD office within 10 business days. [24 CFR 982.354]. Insufficient funding may also impact the VHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the VHA will use to determine whether or not the VHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

The VHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the VHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the VHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the VHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the VHA will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and VHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and VHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against
Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - The length of the relationship
    - The type of relationship
    - The frequency of interaction between the persons involved in the relationship

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
    - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
    - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
    - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
    - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The VHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

The VHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the VHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

Housing Authorities are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The VHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The VHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The VHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The VHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

Notification to Owners and Managers

While Housing Authorities are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the VHA may still choose to inform them.

The VHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program.

The VAWA information provided to owners will consist of a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

If the VHA is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The VHA may extend this time period at its discretion. [24 CFR 5.2007(a)] The individual may satisfy the VHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim

2.A federal, state, tribal, territorial, or local police report or court record, or an administrative record

3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must

attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The VHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The VHA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the VHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the VHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the VHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3) within 30 calendar days of the date of the request for third-party documentation. The VHA must honor any court orders issued to protect the victim or to address the distribution of property.

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the VHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. The family will have 30 calendar days from the date of request by the VHA to provide this documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The VHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

If the VHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, the VHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a VHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the VHA may allow, the VHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the VHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the VHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the VHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and VHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the VHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the VHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the VHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be re-determined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

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PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows Housing Authorities that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance. [24 CFR 983.6]. VHAs may only operate a PBV program if doing so is consistent with the VHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities. [42 U.S.C. 1437f(o)(13)].

The VHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the VHA is not required to reduce the number of these units if the amount of authorized units is subsequently reduced. However, the VHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the VHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17]

The VHA may project-base an additional 10 percent of its units above the 20 percent program limit, if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the VHA policies related to tenant-based assistance also apply to PBV

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assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the VHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. VHAs may not use voucher program funds to cover relocation costs, except that VHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the VHA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The VHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the VHA must comply with the Agency Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

17-II.A. OVERVIEW

With certain exceptions, the VHA must describe the procedures for owner submission of PBV proposals and for VHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the VHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR
983.56], and meets the site selection standards [24 CFR 983.57]. The VHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

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17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

The VHA must select PBV proposals in accordance with the selection procedures in the VHA Administrative Plan. The VHA must select PBV proposals by either of the following two methods.

- VHA request for PBV Proposals. The VHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the VHA request. The VHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The VHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The VHA need not conduct another competition.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]

VHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the VHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the VHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

VHA Request for Proposals for Rehabilitated and Newly Constructed Units

The VHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the local newspaper of general circulation, on its website, and via e-mail to its list of interested parties. In addition, the VHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

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The VHA

The VHA will publish its advertisement for at least one day per week for three consecutive

weeks. The advertisement will specify the number of units the VHA estimates that it will be able to assist under the funding the VHA is making available. Proposals will be due in the VHA office by close of business 30 calendar days from the date of the last publication. In order for the proposal to be considered, the owner must submit the proposal to the VHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The VHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the VHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and
- Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the VHA will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

VHA Requests for Proposals for Existing Housing Units

The VHA will advertise its request for proposals (RFP) for existing housing units in the local newspaper of general circulation, on its website, and via e-mail to its list of interested parties. In addition, the VHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The VHA will periodically publish its advertisement at least one day per week for three consecutive weeks. The advertisement will specify the number of units the VHA estimates that it will be able to assist under the funding the VHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers the VHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

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VHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The VHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The VHA may periodically advertise that it is accepting proposals in the local newspaper of general circulation, on its website, and via e-mail to its list of interested parties. In addition, the VHA will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

In addition to, or in place of advertising, the VHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The VHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the VHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

VHA Notice of Owner Selection [24 CFR 983.51(d)]

The VHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

Within 10 business days of the VHA making the selection, the VHA will notify the selected owner in writing of the owner's selection for the PBV program. The VHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the VHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the VHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The VHA will also post the notice of owner selection on its electronic web site.

The VHA will make available to any interested party its rating and ranking sheets and documents that identify the VHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of

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the notice of owner selection. The VHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The VHA will make these documents available for review at the VHA during normal business hours. The cost for reproduction of allowable documents will be $.10 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of VHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The VHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The VHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The VHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the VHA may not attach or pay PBV assistance for a unit occupied by an owner and the VHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP. **Subsidized Housing [24 CFR 983.54]**

A VHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

* A public housing unit;

- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;

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- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a VHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;

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- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance; and
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the VHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

The VHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The VHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above, the VHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56]

In general, the VHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

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- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates.

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the VHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

The VHA must include in the VHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. The VHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the VHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

Excepted units will be limited to units for elderly families.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the VHA either issued the RFP under which the project was selected or the VHA selected the project without competition, the unit met at least one of the two following conditions:
  - The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,

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- The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

The VHA does not have any PBV units that are subject to the per project cap exception.

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]

The VHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A VHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single family building. A VHA may also determine not to provide PBV assistance for excepted units, or the VHA may establish a per-project cap of less than 25 percent.

The VHA will not provide assistance for excepted units. Beyond that, the VHA will not impose any further cap on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The VHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the VHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the VHA Plan under 24 CFR 903 and the VHA administrative plan.

In addition, prior to selecting a proposal, the VHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

It is the VHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the VHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the VHA will grant exceptions to the 20 percent standard where the VHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

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- A census tract in which the proposed PBV development will be located in a HUDdesignated Enterprise Zone, Economic Community, or Renewal Community;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The VHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards and meet State laws related to affordable housing development:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the VHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

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- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The VHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The VHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the federal and state environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The VHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the VHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The VHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The VHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing,

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manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The VHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

The VHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the VHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the VHA may not execute the HAP contract until the units fully comply with HQS, unless the VHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, unless the VHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

Pre-HAP Contract Inspections [24 CFR 983.103(b); FR Notice 1/18/17]

The VHA must inspect each contract unit before execution of the HAP contract. The VHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS, unless the VHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions.

The VHA will not enter into a PBV HAP contract until all units that will be under contract fully comply with HQS.

Turnover Inspections [24 CFR 983.103(c)]

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Before providing assistance to a new family in a contract unit, the VHA must inspect the unit. The VHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the VHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

The VHA will inspect on a biennial basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the VHA must inspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The VHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The VHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The VHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting VHA supervisory quality control HQS inspections, the VHA should include a representative sample of both tenant-based and project-based units.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the VHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The VHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission. [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

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In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the VHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the VHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units; and
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the VHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the Agreement [24 CFR 983.153]

The Agreement must be executed promptly after VHA notice of proposal selection to the selected owner. The VHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the VHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the VHA may not enter into the Agreement until the environmental review is completed and the VHA has received environmental approval. However, the VHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

The VHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

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17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis Bacon wages to laborers and mechanics employed in the development of housing. The HUD prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates. Additionally, California labor laws also applies which includes the payment of prevailing wages to all trades and abiding by required apprenticeship standards.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The VHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements. **Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the VHA in the form and manner required by the VHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the VHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

The VHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The VHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

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VHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the VHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The VHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the VHA must not enter into the HAP contract.

If the VHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the VHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The VHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and

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- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The VHA may not enter into a HAP contract until each contract unit has been inspected and the VHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the VHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the VHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the VHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

For existing housing, the HAP contract will be executed within 10 business days of the VHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the VHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205; FR Notice 1/18/17]

The VHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of VHA-owned units, the term of the HAP contract must be agreed upon by the VHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the VHA may extend the term of the contract for an additional term of up to 20 years if the VHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. The VHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the VHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

When determining whether or not to extend an expiring PBV contract, the VHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;

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- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by VHA [24 CFR 983.205(c) ; FR Notice 1/18/17]

The HAP contract must provide that the term of the VHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the VHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that the VHA first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the VHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

Termination by Owner [24 CFR 983.205(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the VHA. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the VHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The VHA must provide the family with a voucher and the family must also be given the option by the VHA and owner to remain in their unit with HCV tenant based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain

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except for serious or repeated lease violations or other good cause. Families that receive a tenant based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the VHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.208(b)]

The VHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the VHA determines that a contract does not comply with HQS, the VHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

The VHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

At the VHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the VHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17]

The VHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the VHA must submit to the local field office information outlined in FR Notice 1/18/17. The VHA must also detail in the Administrative Plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

VHA Policy

VHA will consider adding contract units to the HAP contract when VHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.
- Additional PBV assisted units are needed to ensure the financial viability of the project.

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- Amend existing PBV contracts to new program cap limits set by HUD

14 days prior to an RFP announcement or attaching assistance to additional units without competition, HACCC shall submit to the local field office i.) the total number of units authorized in the ACC excluding those PBV units entirely excluded from the cap; ii) the total number of units currently committed to PBV excluding those not counting towards the cap; iii) the number of new units proposed to be assisted. HACCC shall email the information to pbvsubmission@hud.gov with a copy to the local HUD PIH Office.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the VHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

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- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements and state law labor standards and regulations.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the VHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The VHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

The VHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The VHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the VHA, the HAP contract may provide for vacancy payments to the owner for a VHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the moveout month. The amount of the vacancy payment will be determined by the VHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant’s security deposit). The VHA will decide on a case-by-case basis if the VHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

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PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The VHA may select families for the PBV program from those who are participants in the VHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the VHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the VHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The VHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

The VHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the VHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the VHA's waiting list. Once the family's continued eligibility is determined (the VHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the VHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

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17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The VHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The VHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the VHA. If the VHA chooses to offer a separate waiting list for PBV assistance, the VHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a VHA decides to establish a separate PBV waiting list, the VHA may use a single waiting list for the VHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

The VHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance.

For individual projects or buildings that receive supportive services for families with disabilities, applicants meeting that definition will receive priority on the waiting list over applicants who do not.

In addition to the waitlist preferences for VHA's tenant-based vouchers, a preference will be given to families who are homeless for units designated for homeless families under a project-based housing assistance payments contract. A homeless family is one that meets the HUD definition of homeless under 24 C.F.R. 91.5.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the VHA's waiting list. The VHA may establish selection criteria or preferences for occupancy of particular PBV units. The VHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the VHA's tenant-based and project-based voucher programs during the VHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the VHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The VHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The VHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The VHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that

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preference is consistent with the Agency Plan. The VHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the VHA has projects with "excepted units" for elderly families or supportive services, the VHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

The VHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). For individual projects or buildings that receive supportive services for the disabled, applicants meeting that definition will receive priority on the waiting list over applicants who do not.

Units receiving PBV assistance under the VASH program will be restricted to Veterans referred by the VA according to VASH requirements.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The VHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

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

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the VHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the VHA must provide a briefing packet that explains how the VHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

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Persons with Disabilities

If an applicant family's head or spouse is disabled, the VHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the VHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The VHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the VHA from the VHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the VHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the VHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the VHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The VHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify the VHA in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

The VHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the VHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

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17-VI.G. TENANT SCREENING [24 CFR 983.255]

VHA Responsibility

The VHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy and will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The VHA must provide the owner with an applicant family's current and prior address (as shown in VHA records) and the name and address (if known by the VHA) of the family's current landlord and any prior landlords.

In addition, the VHA must provide applicant families a description of the VHA policy on providing information to owners, and the VHA must give the same types of information to all owners.

The VHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

The VHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The VHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc. **Owner Responsibility** The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

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

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the VHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

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Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a VHA model lease.

The VHA may, but generally will not, review the owner's lease form to determine if the lease complies with state and local law. If the VHA determines that the lease does not comply with state or local law, the VHA may decline to approve the tenancy.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the VHA (the names of family members and any VHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease

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- The VHA terminates the HAP contract
- The VHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the VHA a copy of all changes.

The owner must notify the VHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the VHA and in accordance with the terms of the lease relating to its amendment. The VHA must re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by VHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. VHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted. **Continuation of Housing Assistance Payments [24 CFR 982.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the VHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the VHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. The VHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

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When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The VHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

If the VHA determines that a family is occupying a wrong size unit, based on the VHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the VHA must promptly notify the family and the owner of this determination, and the VHA must offer the family the opportunity to receive continued housing assistance in another unit.

The VHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the VHA's determination. The VHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project
- PBV assistance in another project
- Tenant-based voucher assistance

If the VHA offers the family a tenant-based voucher, the VHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the VHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the VHA must remove the unit from the HAP contract.

If the VHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the VHA, or both, the VHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the VHA and remove the unit from the HAP contract.

When the VHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the VHA will terminate the housing assistance payments at the expiration of this 30-day period.

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The VHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the VHA. If the family wishes to move with continued tenant-based assistance, the family must contact the VHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the VHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the VHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

The VHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the VHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the VHA, and the VHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the VHA has the discretion to allow the family to remain in the excepted unit. If the VHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the VHA, and the VHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot

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subsequently be denied continued housing opportunity because of this changed circumstance. A VHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the VHA.

The VHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

The VHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control. In all other cases, the VHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the VHA will terminate the housing assistance payments at the expiration of this 30-day period.

The VHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is re-determined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

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- An amount determined by the VHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance
- The reasonable rent
- The rent requested by the owner

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986
- The contract unit is not located in a qualified census tract
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance
- The reasonable rent
- The rent requested by the owner

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The VHA must determine reasonable rent in accordable with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the VHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases: To correct errors in calculations in accordable with HUD requirements

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- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the VHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the VHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the VHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the VHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the VHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Upon written request by the owner, the VHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The VHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the VHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the VHA determines it is necessary due to VHA budgetary constraints.

Redetermination of Rent [24 CFR 983.302]

The VHA must re-determine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the VHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the VHA. The VHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

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An owner's request for a rent increase must be submitted to the VHA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The VHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the VHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change

The rent to owner is re-determined by written notice by the VHA to the owner specifying the amount of the re-determined rent. The VHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

The VHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the VHA, except where the VHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The VHA must re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The VHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

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How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the VHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner. ***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the VHA. The comparability analysis may be performed by VHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the VHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a VHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program: An insured or non-insured Section 236 project;

- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

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Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

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PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the VHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the VHA agree on a later date.

Except for discretionary vacancy payments, the VHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the VHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the VHA determines that the vacancy is the owner's fault.

If the VHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the VHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The VHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the VHA, the HAP contract may provide for vacancy payments to the owner. The VHA may only make vacancy payments if:

- The owner gives the VHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the VHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the VHA and must provide any information or substantiation required by the VHA to determine the amount of any vacancy payment.

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If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the VHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the VHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the VHA within 10 business days of the VHA's request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the VHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the VHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the VHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the VHA. The owner must immediately return any excess payment to the tenant.

Tenant and VHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the VHA.

Likewise, the VHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The VHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The VHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the VHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The VHA will pay the utility reimbursement directly to the utility supplier on behalf of the family.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

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In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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Chapter 18

FAMILY SELF-SUFFICIENCY

18-I.A. PURPOSE

The purpose of the Family Self-Sufficiency (FSS) Program is to provide opportunities to Housing Choice Voucher (HCV) families to move toward economic independence and self sufficiency. The FSS Program will assist very low income families receiving assistance through the HCV Program to receive comprehensive supportive services that will enable them to achieve economic independence and self-sufficiency by reducing dependency on welfare assistance, housing assistance, and other Federal, State and local subsidies.

A successful FSS Program will enhance the standard of living of the participant. It is possible for a motivated client to achieve suitable employment within the term of the five-year contract. However, the likelihood of success is significantly higher when self-sufficiency is pursued within a system of supportive services.

18-I.B. OBJECTIVES

To meet the goals of the FSS Program, the Vallejo Housing Authority's (VHA) objectives are:

- To create partnerships with public and private agencies to provide quality supportive services. The expectation from these partnerships is the ability to provide referrals for supportive services including, but not limited to, childcare, employment, education, life skills, and homeownership.

    - The combined support of housing assistance and supportive services will enable the FSS participants to meet the goals defined in their FSS contract and to move toward achieving financial independence and self-sufficiency.

- To provide families with stable rental assistance support while in FSS, allowing them to participate in employment education and job training programs without undue concern for the welfare and safety of their families.

- To provide participating families with an opportunity to save for the future through the establishment of an interest–bearing escrow account.

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18-I.C. PROGRAM SUMMARY

When funding is available, VHA will enroll existing HCV participants whose eligibility has been determined. HUD regulations reduce the required number of participants by one for every successful participant graduating on or after October 21, 1998, thereby reducing the overall number of mandatory VHA participants. However, the VHA is committed to maintaining a minimum program size of twenty-five (25) participants. The VHA will consider as large an FSS program as staffing permits.

Measuring Program Success

FSS Program success is determined by:

- The number of families enrolled
- The number of families with increased earnings which result in escrow balances
- The number of families that graduate successfully from the FSS program
- The number of family members who, as a result of participation in the FSS program, completed their goals in the FSS contract, such as:
- Achieve their first job
- Obtain higher paying employment
- No longer receive welfare benefits (cash assistance payments)
- Gain a GED or High School Diploma o Complete job training or education program
  Repair credit history
  o Gain money management skills
  Learn to read
- o No longer need housing assistance
- o Purchase a home

Rights of Non-Participating Families

Tenant participation in the FSS program is strictly voluntary. Therefore, HCV participants will receive notice from literature related to the FSS program that should they decide not to participate in the FSS program, it will not affect their HCV housing subsidy. The family will retain their right to occupancy according to their lease.

Certification of Non-Discrimination

The VHA assures that selection of participating families will be made in a nondiscriminatory manner with-out regard to race, color, religion, sex, family status, national origin, sexual

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orientation, disability, or political affiliation in compliance with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, and Executive Order 11063.

Compliance with MTCS Filing

The VHA uses HAPPY Software to electronically file HUD Form 50058 submissions as required by HUD. This proprietary software is adequate to provide HUD the required data on a timely basis.

18-I.D. OUTREACH OFFORTS

The VHA will market the FSS program using a variety of methods to ensure that all HCV participants are aware of the opportunities available to them through FSS, and will allow interested families to make an informed decision concerning participation in the program. Outreach activities will primarily target eligible families on the HCV Program. Recruitment activities will include, but are not limited to:

- Direct mailing to all VHA Housing Choice Voucher participants at the time of open enrollment
- Interest Forms made available through VHA staff, from VHA lobby or requested through mail
- FSS segment included in the briefing of all clients new to the Housing Choice Voucher Program
- Posting of FSS information in interview rooms and in VHA lobby
- Providing FSS brochures at the VHA office
- Ongoing recruitment through contact with VHA staff
- Proactively informing other social service agencies and community groups
- Presentations at community meetings
- Information through VHA website/local media

Outreach materials will provide information on the benefits of the FSS Program, the process to enroll and a contact person for more information. Outreach methods and materials will comply with all applicable Fair Housing and Equal Opportunity requirements. If these measures do not result in sufficient enrollment in the FSS program according to HUD requirements, VHA will implement additional outreach activities.

Incentives to Encourage Participation

The VHA has established incentives to encourage participation in the FSS program. The inducements being offered to the FSS participating families are listed below:

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Opportunity: The primary incentive given to FSS participants is the opportunity to change the household's social and economic status from one of dependence upon subsidies to one of self-sufficiency and self-reliance.

Community Resources: A host of community resource agencies is at the disposal of each program participant to use on an as-need basis for training, education and life skills purposes. Efforts will be made so that each participant will be linked with job training, educational, and supportive service agencies to provide the services necessary to develop self-sufficiency.

Financial Reward: An escrow account is initiated for each participant who signs the FSS contract. Funds are deposited in the escrow account as the participant reports an increase in earned income. The VHA will deposit the FSS account funds of all participating families into a single depository account.

Selection Procedures

Families selected for participation in the FSS program will be current recipients of the HCV Program. Selections are made without regard to race, color, religion, sex, disability, familial status, or national origin.

The VHA will not discriminate against otherwise qualified persons because of their disabilities and will make reasonable accommodations to the person's disability to allow participation in the program. The HA may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.

The VHA may, at its discretion, screen new FSS participants for interest and motivation factors that solely measure the family's interest to participate in the FSS program. The VHA gives an FSS selection preference in the following order:

- Incoming portable transfers (with active FSS contracts and in good standing with their current HA) on a case by case basis
- Assisted HCV participants
- A family who previously participated in the FSS program and voluntarily withdrew for good cause, in good standing, will be reconsidered on a case by case basis

Re-entry into the FSS program is at the sole discretion of the VHA. Previous FSS participants who successfully completed the program will not be permitted to re-enter.

Program Eligibility

The VHA will not deny any family the opportunity to apply or participate in the FSS program on the basis of race, color, national origin, religion, sex, familial status or handicap (disability). The VHA will not discriminate against other qualified persons because of their disabilities and, upon request, will make reasonable accommodation to allow participation in the FSS program. The

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VHA may decide that an accommodation is not reasonable if it causes undue financial and/or administrative burdens.

A family is eligible for participation when the following conditions are met:

- Attend a mandatory FSS orientation meeting
- Complete and submit the FSS application and FSS assessment in a timely manner
- Attend pre-selection interview and complete assessments or assignments to develop the Individual Training and Service Plan
- Does not owe money to the VHA or any other Housing Authority
- No violations of any HCV family obligations/regulations, including Housing Quality Standards
- Willing to pursue the goals of the FSS program
- Willing to enter into a contractual agreement with the VHA

Enrollment Procedures

Current HCV participants interested in participating in the FSS Program will complete the FSS Interest Form. When a sufficient number of interested participants exists, the family will be invited to attend a FSS orientation. Applicants must attend the mandatory orientation meeting to receive further consideration for the program.

The orientation is an informational briefing that will explain the benefits and requirements of the FSS program. The orientation will include, but is not limited to:

- The needs assessment process;
- Explanation of the program requirement that the Head of Household must seek and maintain employment;
- Explanation of suitable employment;
- HUD welfare requirements;
- How support services will be accessed;
- Reporting responsibilities of the participating family;
- The Contract of Participation and what it means
- HCV program requirements and family obligations
- The 5 to 7 year length of participation;
- Escrow account (including possible forfeiture)
- Possible termination of support services and the FSS program

Families who attend the orientation will receive a FSS application and assessment form to be completed if they are still interested in the program. A completed application and assessment constitutes notification to the VHA of the applicant's interest to enroll in the FSS Program. Forms returned by applicants will be date and time stamped and the applicant will be placed on the FSS Waiting List in the order of receipt. Applicants will be notified in writing of their waiting list status.

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As FSS participation turnover occurs, applicants will be pulled from the waiting list and scheduled for an intake interview with the FSS Coordinator. The FSS Coordinator will conduct a needs assessment and work with the applicant on identifying goals and developing an Individual Training and Service Plan (ITSP). This process may require the applicant to attend more than one meeting with the FSS Coordinator.

Based upon the intake interview, application and needs assessment process, the FSS Coordinator will determine whether the family is eligible and sufficiently motivated to participate in the FSS Program. Admission into the program is at the discretion of the HA staff. Applicants who are admitted to the Program will complete the ITSP and sign a Contract of Participation (COP) with the VHA.

17-I.E. DENIAL OF PARTICIPATION IN FSS

VHA may deny participation in the FSS program for one or more of the following reasons:

- Families screened for motivational factors and were determined to not have sufficient interest in FSS
- Families who previously participated in FSS and successfully completed the program
- Families terminated from a previous FSS contract with cause
- Families that previously participated in FSS and were terminated for non-compliance and/or failure to meet their FSS obligations
- Families that previously participated in FSS but did not meet their goals before expiration of the COP
- Families that owe money to VHA or any other Housing Authority
- Families who are not currently in good standing with the VHA (in violation of the Family Obligations) including Housing Quality Standards (HQS)
- Portable families who are in non-compliance with the FSS obligations of the initial HA
- Portable families who fail to follow through by contacting VHA to transfer their FSS contract within the required period of time

Families denied participation in the FSS program may request an Informal Hearing (See Chapter 16 of this Administrative Plan) to determine whether the decision was made in accordance with HUD regulations and the guidelines in this plan. The request for an Informal Hearing must be made, in writing, within ten (10) business days of the date of notification of the decision to deny participation.

18-I.F. INDIVIDUAL TRAINING AND SERVICES PLAN (ITSP)

The VHA will assist FSS families to develop Individual Training and Services Plans (ITSP) to help participants determine the actions necessary to become self-sufficient. All ITSP's will include the following interim goals:

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- All family members will be free from welfare assistance (cash assistance) twelve (12) consecutive months prior to the expiration of the FSS COP.
- Head of Household must be suitably employed at the time of graduation.
- Head of household is to obtain a GED or High School Diploma to graduate from the FSS program. The GED or High School Diploma may be substituted by certified completion of a vocational or training program specifically identified on the ITSP.

Waiver of GED or High School Diploma

The VHA holds that high school graduation, or completion of a GED is an integral component to self-sufficiency. However, if the participant requests consideration of a waiver, they must submit a written request, along with supporting documentation to the FSS Coordinator. The waiver must include an explanation and supporting documentation as to why the participant was unable to obtain the GED or High School Diploma within the term of the COP. The FSS Coordinator may recommend that this requirement be waived based on the individual circumstances of each participant, and only if all other goals of the COP have been completed. The final decision to waive completion of the high school diploma or GED requirement is at the discretion of the Executive Director of designee. Examples of conditions which may warrant consideration of a waiver are:

- Serious illness of participant or dependent
- Medical emergencies
- Multiple failed attempts to pass the GED exam
- Documented learning disabilities
- Failed support system

The ITSP for participants with homeownership as a final goal may also include, but not limited to:

- Credit repair
- Homeownership education. Must be employed full time for a minimum of one year (with the exception of disabled families)

Method of Identification of Supportive Services

The type of supportive services and resources for eligible participating families is based on individual needs. The VHA anticipates that the major needs for services and resources will be in the following categories: Education, Job Training, Childcare and Transportation. The FSS Coordinator will work with the participant to develop an ITSP tailored specifically for that participant based on information provided in the FSS application and assessments forms. The FSS Coordinator may conduct an extensive interview with each program participant to determine his/her specific needs, short and long-term goals.

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FSS Participant Referral for Services

The VHA may provide FSS participants with referral forms. The referral form may be completed by the agency providing the service to ensure that the participant did meet with the agency, and that the participant did follow through with any scheduled appointments or classes.

It is the responsibility of the participant to notify the FSS Coordinator of the outcome of the referral. Follow up may be confirmed by phone or written communication.

Service Provider Review

The VHA may monitor the quality of service provided to FSS families. The monitoring will consist of all FSS participants referred to another agency for services to complete a verbal or written review of the quality of service provided.

The VHA may also periodically contact agencies and/or FSS participants regarding supportive services to:

- Assess a participant's progress
- Determine if a participant's needs are being met by the supportive service provider
- Develop effective services with community agencies
- Improve existing available services

18-I.G. CONTRACT OF PARTICIPATION (COP)

All applicants selected for participation in the FSS program will be required to sign a five-year Contract of Participation (COP). The VHA will use a contract format approved by HUD. The contract will also include an Individual Training and Services Plan (ITSP) which specifies the contract goals and timetables for completion of goals.

To compute the monthly contribution to the escrow account the VHA must have the Total Tenant Payment (TTP) and the amount of earned income included in the annual income at the time the contract is signed. The income numbers and TTP must be taken from the last annual or interim reexamination before the family's initial participation in the FSS program, unless more than 120 days will pass between the effective date of the reexamination and the effective date of the COP. If it has been more than 120 days, the VHA must conduct a new reexamination or interim re-determination. Failure to provide current income may cause a delay or denial of completion of the FSS contract.

Income verifications used to determine annual and earned income on the COP must be maintained in the FSS file for the life of the FSS contract.

The contract is executed on the first day of the month following the date the contract is signed by the participant and VHA representative.

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Family Requirements

Family responsibilities under the COP include, but are not limited to:

The Head of Household must:

- Seek and maintain suitable employment throughout the term of the contract. (The head of household may attend school only as a pre-condition to seeking employment. After completion of the contracted course of study the head of household must seek and maintain a suitable job. School may not be substituted for employment.

    - The VHA FSS Program defines "suitable" employment as a lawful activity that falls into at least one of the following categories:

        - Employment which is verifiable for at least 32 hours/week. Employment must be with one (or more) established, legitimate business(es).

        - Self-employment which is verifiable and reflects net earnings (after business expense deductions) of at least 32 hours per week at the current California minimum wage.

        - Contracted or commission employment may be considered if it meets the hourly/income requirement, is verifiable, and is being declared for tax purposes. These cases will be staffed on an individual basis for approval.

        - Reasonable Accommodation for Disabled Individuals: Requests for a reasonable accommodation to the FSS program's definition of "suitable" must be submitted in writing prior to program completion. The statement must be supported by a written statement from the individual's healthcare provider or other knowledgeable professional, which is required to include a recommendation from the provider as to a specific number of hours that the individual is able to work per week. The FSS program will consider the number of hours specified by the medical provider when determining the hours required for the client to be "suitably" employed.

- Participants who have elected homeownership as a final goal must be employed full time for one year.
- Self-employment (defined by VHA for the purpose of defining suitable employment) will be determined by a minimum gross income of the state minimum wage times a minimum of 30 hours per week.
- Complete activities in the ITSP within the specified dates.
- Provide the VHA with information about the family's progress in the FSS program upon request, including information regarding employment, job interviews, training, education, attendance, and other FSS services, referrals and activities.

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All Family Members must:

- Comply with the terms of the HCV program and the lease agreement
- Comply with the family obligations under the HCV program, including HQS
- Live in the jurisdiction of the FSS program at least twelve (12) consecutive months from the effective date of the contract, unless waived by the VHA.

Contract Terms and Extensions

The initial term of the COP is five (5) years. A participant may request an extension of the contract for good cause, if the family is unable to complete its goals within the five year period. HUD defines good cause as "circumstances beyond the control of the family as determined by the PHA". [24 CFR 984.303(d)].

The VHA may extend the term of the COP for a period not to exceed two years; however, the participant must submit the request for contract extension, in writing, prior to the expiration of the contract, and must provide a detailed account and verification/documentation of the circumstances. Failure to provide supporting documentation within the required time period will be cause for denial of the contract extension and the contract will be terminated. Examples of good cause are as follows:

- Serious illness that prevents the FSS head of household from completing his/her goals.
- Incomplete job training or education goal(s) in which the family is currently enrolled.
- Involuntary loss of employment by FSS head of household.
- To allow families to meet the interim goal of independence from welfare (cash assistance) for twelve consecutive months before expiration of the COP.

The determination of whether an extension will be granted will be made at the sole discretion of the VHA.

Families denied a contract extension may request an Informal Hearing to determine whether the decision was made in accordance with HUD regulations and the guidelines of this plan. The request for an Informal Hearing must be made, in writing, within ten (10) business days of the date of notification of the decision to deny the extension.

Remaining Family Members

If the designated head of the family becomes medically ill or ceases to reside with other members of the participating family who continue to receive assistance under the FSS program, the remaining family members shall have the right to request another family member as head of household for FSS purposes. This would also require a change to the head of household for HCV purposes, which could affect the family's status as an elderly or disabled family. The VHA must approve the family's request and the COP must be revised to designate the new head of household who must be 18 years of age and seek and maintain employment.

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Completion of the Contract of Participation (COP)

The VHA has sole discretion to determine whether the family has successfully completed its COP. The contract will be successfully completed when:

- The VHA determines that the family has fulfilled all of its responsibilities under the contract, or,
- Thirty percent (30%) of the family's monthly-adjusted income (AMI) equals or exceeds the Fair
- Market Rent (FMR) for the unit size for which the family qualifies under the VHA's Occupancy Standards, and no family member is receiving welfare (cash aid) assistance at the time.

Graduation Procedures

Family Responsibilities

To successfully graduate from the program, the family must submit a request for consideration for graduation in writing to the VHA; and

- Demonstrate that the family has fulfilled all obligations under the COP on or before the expiration date(s) on the ITSP (including any extensions); and
- Certify that all household members are independent of welfare assistance (as defined by HUD); and
- Submit verification that the head of household is suitably employed.

VHA Responsibilities

The VHA must:

- Review the request for graduation and determine if the family has met all of the above requirements.
- Determine if employment is suitable based on the skills, education, and job training of the head of household, and based on job opportunities within reasonable commuting distance of the VHA's jurisdiction. In most instances suitable employment is defined as consistent full time employment (30 hours per week) for a minimum of one year.

    - Self-employment (defined by VHA for the purpose of defining suitable employment) will be determined by a minimum gross income of the state minimum wage times a minimum of 30 hours per week).

- FSS Coordinator will submit the request for graduation and all supporting documentation to the VHA Management for final approval and request for payment of escrow funds.

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- Disburse any accumulated escrow funds if it is determined that the family met the requirements for graduation.

18-I.H. TERMINATION OF THE CONTRACT OF PARTICIPATION (COP)

Program Terminations

The COP may be terminated before the expiration of the contract term for any of the following reasons:

- Mutual consent of both the participant and the FSS Coordinator
- Participant fails to meet its obligations outlined in the COP
- Participant voluntarily withdraws from the FSS program
- Participant commits any act deemed inconsistent with the purpose of the FSS program. Examples include failure to comply with reporting requirements, providing fraudulent information, violation of HCV family obligations, including HQS
- By operation of law

Withholding Services

The VHA may withhold services for the following reasons:

- The FSS family fails to comply with the terms of the COP. Failure to meet the terms of the COP may include:

  o Unexcused absences from mandatory scheduled meetings or appointments. o Refusal to seek or maintain suitable employment. o Refusal to comply with obligations under the COP. o Failure to complete the requirements of the ITSP. o Moving from the jurisdiction and failure to notify the FSS Coordinator of continued interest/participation in the FSS program within thirty (30) days of the effective date of the new lease with the receiving VHA. o The VHA is not able to obtain the necessary supportive services that the FSS family needs. o Failure to remain in the VHA's jurisdiction for 12 months after initiation of the COP (unless waived by the VHA).

Good cause for failing or refusing to comply with the contract may include:

- An assignment or job referral that is not included in the COP
- Temporary illness or incapacitation
- Requirement to appear in court

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- Family crisis, such as illness or death of a family member

Informal Hearing Process

If the VHA staff determines the need to terminate or withhold the FSS participant's supportive services under the COP for failure to comply with the terms of the contract, the participant will be afforded an opportunity for an informal hearing before termination of housing assistance payments and other program benefits. (See Chapter 16 of this Administrative Plan).

Termination notices to the FSS participants must be in writing. The notice must include the reason for termination and the right to request an informal hearing. Participants shall have the right to be represented, at their own expense, by a person(s) of their choosing, at all levels of the complaint process.

The Housing and Community Development (HCD) Manager or his/her designee will review all requests for hearings filed by participants of the FSS program. The HCD Manager or designee may reinstate the program participant to the FSS program, if extenuating circumstances offered by the participant warrant the reinstatement.

FSS Termination Procedure

Warning Letter

Initially, the FSS Coordinator will send a warning letter to the participant, if he/she is not abiding by the terms of the COP. This letter will give the participant an opportunity to discuss the issue(s) in an attempt to resolve the matter before termination is necessary.

Termination Notice

If the participant continues to fail to comply with the terms of the COP, then the FSS Coordinator will issue a 30-day notice of intent to terminate from the FSS program. The letter will state the program violations. The program participant will be offered the opportunity for an informal hearing to discuss the program violations.

The participant has ten (10) business days from the date of the termination notice in which to request a hearing. The request for hearing must include the following information:

- Full name, telephone number (if any) and the mailing address of the participant;
- Written request for a hearing based upon the actions taken by the VHA; and
- Summary statement of the reason(s) the participant feels the termination is not justified.

Hearing requests received after the 10-day deadline will not be considered and the termination will stand. The VHA will not grant any extension of time in which to file except for the purpose of reasonable accommodations, which must be made in writing, to the Housing Manager or designee.

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Termination Confirmation

A termination confirmation letter will be sent including the date and reason for termination:

- If a participant fails to comply with the terms of the COP and does not respond to the Warning Letter or Termination Letter
- If the termination is upheld by a decision from the Informal Hearing Officer

18-I.I. ESCROW ACCOUNT MAINTENANCE

The VHA will compute the family's monthly escrow credit through annual reexaminations or interim recertification as per HUD regulations.

Participant Reporting Requirements

The family must report:

- Total family income at the annual recertification appointment
- Changes in household income within ten (10) business days

Housing Authority Responsibilities

The VHA will provide the FSS participants an annual statement on the status of their FSS escrow account. The statement will include:

- Balance at the beginning of the reporting period
- Amount of the family's rent payment that was credited to the FSS account during the reporting period
- Deductions made from the account for amounts due to the VHA and/or amounts deduced for disbursement to families for the purpose of completing specific interim goals
- Interest earned on the account during the year
- Account balance at the end of the reporting period

Escrow funds will be computed and deposited monthly for participants who earn escrow due to an increase in earned income.

Interest will be computed on the participants escrow balance at least once quarterly based on an interest rate determined by the City of Vallejo Finance Department.

Escrow will not be deposited for any family with zero housing assistance payment (HAP) due to annual or interim recertification that determines the family is over income for housing assistance.

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Escrow will not be deposited if the family is not housed and no housing assistance payment is made for a specific month.

Escrow Withdrawal at Conclusion of FSS Contract

The amount accrued in the escrow account must be paid to the Head of Household of the participating family:

- When, at contract completion, the Head of Household certifies that, to the best of his/her knowledge and belief, no family member has received Federal or State welfare assistance for consecutive twelve (12) months before the end of the contract. The VHA will verify that the family is no longer receiving welfare (cash aid) assistance before escrow monies are released to the family.
- The VHA has determined that the participating family has completed the goals outline in the COP. A family will not be permitted to continue receiving a monthly escrow deposit once it has successfully completed the program.
- When thirty percent (30%) of the family's monthly-adjusted income equals or exceeds the existing housing FMR for the voucher size issued in the HCV housing assistance program; and the family is not receiving welfare (cash aid) assistance at the time.

Interim Disbursements during the Contract Term

The determination to disburse these funds will be at the sole discretion of the FSS Coordinator and the HCD Manager or his/her designee.

Escrow funds may be disbursed before completion of the contract if the family has completed specific interim goals designated by the VHA, and need some of the FSS escrow account funds to complete specific goals.

Interim disbursements may be approved for not more than fifty percent (50%) of the family's escrow balance at the time of the request. The VHA will not grant more than two (2) interim disbursements per Family.

Interim disbursements may be considered under the following conditions:

- Request is made in writing and include verification that the funds are required for the completion of a goal under the family's COP (example: to pay for school tuition, job training expenses, business start-up expenses);
- The family can demonstrate completion of specific interim goals from its COP

Interim escrow disbursements must be paid by check directly to the agency or business providing the required items or services.

- A copy of the invoice, VHA check, and payment receipt from the agency or business will be retained in the participant's file

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- The amount disbursed will be a debit to the FSS escrow account at the time the payment claim is processed.

Forfeiture of Escrow Account

If any FSS participant's Contract of Participation is terminated, or declared null and void, the family has no right to receive funds from the FSS escrow account. The VHA will close the family's escrow account and may use the forfeited funds in accordance with HUD regulations.

Funds in the FSS escrow account will be forfeited:

- If the Housing Authority terminates the COP;
- If the COP is completed but the family is receiving welfare (cash aid) assistance when the contract expires, including any extension;
- If the family is in violation of family obligations under the HCV program (including HQS);
- If the family is terminated from the HCV program for violation of family obligations

FSS account funds forfeited by the family will be treated as program receipts for payment of program expenses under the HA HCV program budget.

18-I.J. PORTABILITY PROCEDURES

Incoming Portability

The VHA is not obligated to accept incoming portable FSS participants into the VHA program. The VHA may accept incoming transfers into the FSS program if they have an active contract and are in compliance with the FSS program requirements of the initial housing authority. Acceptance of incoming portable clients is at the discretion of the VHA based on funding and space availability.

Family Responsibilities

Families must lease an assisted unit, for a minimum period of 12 months after the effective date of the COP in the jurisdiction of the VHA that selected the family for the FSS program.

It is the responsibility of all FSS families exercising portability into VHA's jurisdiction to notify the VHA of their FSS status. Families, with active FSS contracts and in good standing with the initial Housing Authority, who contact the FSS Coordinator within thirty (30) days of the effective date of their lease may be accepted into the FSS program on a case by case basis.

Procedures

The family must notify the VHA of an active FSS contract at the initial Housing Authority within 30 days of the effective date of their lease. Notification must be in writing. The VHA will

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give preference to absorb any incoming portable transfers with an existing FSS COP in good standing.

After notification by the family, the VHA will determine if the family will be accepted in the FSS program by contacting the initial Housing Authority to verify the family's compliance in their program.

- If the VHA can accept the family in the FSS program, the VHA will notify the family and contact the initial Housing Authority to request a copy of the current COP, and to request transfer of any escrow funds.
- If accepted into the VHA FSS program, the family must complete the FSS application and assessment forms before signing a new COP and ITSP.
- Incoming portable families whose vouchers are not absorbed by the VHA may continue in the FSS program of the initial Housing Authority if the initial Housing Authority is willing to maintain the COP and the escrow account. If the voucher is absorbed at a later date, the initial Housing Authority can no longer administer the FSS contract and the family must execute a new COP with VHA or be terminated from the FSS program. If a new COP is executed with VHA, the initial Housing Authority will forward the family's escrow account balance to VHA.
- If the VHA cannot accept the family in the FSS program, the family will be notified, in writing, of the denial of participation.
- An incoming portable transfer with a current FSS COP from its initial Housing Authority that is denied acceptance into the FSS program may request an Informal Hearing to determine whether the decision to deny acceptance was made in accordance with HUD regulations and the guidelines in this plan. A request for an Informal Hearing must be made in writing within ten (10) business days of the date of notification of the decision to deny acceptance.

Outgoing Portability

For the purposes of this section, the term "relocating family" refers to an FSS family that moves from the jurisdiction of a Housing Authority at least 12 months after signing its COP.

Initial Occupancy

First 12 months: A family participating in the HCV FSS program must lease an assisted unit for a minimum of 12 months after the effective date of the COP, in the jurisdiction of the Housing Authority that selected the family for the FSS program. However, the Housing Authority may approve a family's request to move outside the initial Housing Authority jurisdiction under portability (in accordance with 24 CFR 982.353 of the HUD regulations) during this period.

After 12 months: After the first 12 months of the FSS COP, the FSS family may move outside the initial Housing Authority's jurisdiction under portability procedures (in accordance with 24 CFR Section 982.353).

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It is the responsibility of the participant to notify the receiving Housing Authority of their status an FSS participant. However, the VHA will make every reasonable effort to ensure the receiving agency is aware of the FSS status of the participant when the paperwork is transferred to the receiving agency. The participant must abide by the rules and regulations for FSS portability at the receiving agency.

Procedures

- The VHA will send a copy of the COP and ITSP with the HCV portability packet to the receiving Housing Authority.
- The family must contact the FSS Coordinator at the receiving Housing Authority regarding transfer into their FSS program within thirty (30) days of the effective date of the new lease.
  - If the family's voucher is absorbed by the receiving Housing Authority and the family is accepted in their FSS program, the contract and any escrow funds will be transferred to the receiving Housing Authority upon request. If a request for transfer of the COP and escrow funds is not received within 60 days of the new lease in the receiving jurisdiction, any balance in the escrow account is forfeited and the COP is terminated.
- If the family's voucher is not absorbed by the receiving Housing Authority, and if the family can demonstrate that it can fulfill its responsibilities under the FSS contract in the new location, the family may be allowed to continue in VHA's FSS program if the family demonstrates to the satisfaction of the initial Housing Authority that, notwithstanding the move, the relocating FSS family will be able to fulfill its responsibilities under the initial or modified COP at its new place of residence.

    - For example, the FSS family may be able to commute to the supportive services specified in the COP, or the family may move to obtain employment as specified in the contract. This is applicable only if the family has relocated to a jurisdiction within reasonable commuting distance of VHA services. - If the relocating family remains in the VHA FSS program, there will only be one COP, which shall be the contract, executed by the VHA. - Regardless of whether the FSS family remains in the VHA program or enrolls in the program of the receiving Housing Authority, there will be a single FSS account, which will be maintained by the initial Housing Authority. - When the receiving Housing Authority will absorb an FSS family, the VHA will transfer the family's FSS escrow account to the receiving Housing Authority.

- At its discretion, the VHA may terminate the family's COP if the family exercises portability to a jurisdiction that does not have an FSS program, if the family is not accepted into the new Housing Authority's FSS program, or if the family is absorbed by the receiving Housing Authority.

18-I.K. COMMUNITY PARTNERSHIPS

The VHA has an established record of accomplishment with helping HCV families end their dependence on welfare. The FSS program has a full-time FSS Coordinator who provides case management, information, and referral assistance to families. The FSS Coordinator works

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closely with participating families to ensure compliance with HCV requirements and meeting the goals identified in the FSS COP.

A variety of services (childcare, after school care, education transportation, etc.) are needed so that families can function in ways which allow each member to maintain self-esteem, to pursue meaningful life options and to make lasting changes. Families will require jobs that provide them with the chance to advance, earn a living wage, and acquire comprehensive health benefits.

Through FSS, the VHA has become an active participant in the various welfare reform programs in Solano County, including but not limited to, Solano County Health and Social Services, the Solano County Office of Education, the Solano Employment Connection (SEC), the Vallejo and Fairfield Adult Schools, faith based organizations, and other local housing authorities, along with numerous other agencies that service low income clients. Through these relationships, the VHA
continues to develop ways to fortify its efforts to promote self-sufficiency, as well as contributing new ways to enhance the systems already in place.

Program Coordinating Committee

In association with other Housing Authorities in Solano county, a Program Coordinating Committee (PCC) has been established to serve the Solano County FSS participation. The purpose of this committee is to assist the Housing Authorities in Solano County in securing commitments of public and private resources for the operation of the FSS program within our jurisdiction.

The VHA will continue to maintain a PCC to assist the FSS program identify public and private resources for the operation of the FSS program.

The role of the PCC is to:

- Serve as an advisory body to the FSS Program
- Review the progress of the FSS programs
- Facilitate coordination of services
- Share program information
- Exchange outreach and program implementation strategies
- Expedite and coordinate agreement with potential service providers

Meetings

The PCC will meet at least four (4) times annually.

Membership

The PCC Membership may include a representative from the following agencies:

- Vallejo Housing Authority – FSS Coordinator and an FSS participant

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- Benicia Housing Authority
- Fairfield Housing Authority
- Vacaville Housing Authority (representing Vacaville and Solano County Housing Authorities)
- Solano County Health & Social Services
- Fairfield – Suisun Adult School
- Vallejo Unified School District Solano Community College
- Solano Family and Children's Services
- City of Vallejo Fighting Back Partnership
- Faith Based community leaders
- Local business owners
- Real estate community
- Financial (banking) industry

Activities and Supportive Services

The VHA certifies that Memorandums of Understanding (MOUs) to secure commitments of resources have been signed between Vallejo, Solano County, Benicia, Fairfield, and Vacaville Housing Authorities and the following agencies serving low-income persons in Solano County:

- City of Vallejo Fighting Back Partnership Solano Community College
- Solano Family and Children's Council Vallejo Unified School District Solano Family and Children's Services
- Vacaville Unified School District

Participation with community-based organizations promotes coordination of services and strives to eliminate duplication of effort between agencies serving the low-income population of Solano County. The VHA participates on the following boards and committees:

- Solano County Workforce Investment Board
- Solano County Community Employment Taskforce
- Bay Area FSS/Homeownership Coordinator's Committee
- Solano County Program Coordinating Committee
- Solano Transportation Authority

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