

# **Administrative Plan**

**For Carroll County Housing and  
Community Development**

**Housing Choice Voucher Tenant-Based Program**



**FY 2024**

# TABLE OF CONTENTS

<b>CHAPTER 1 OVERVIEW OF THE PROGRAM AND PLAN .....</b>	<b>1-1</b>
INTRODUCTION.....	1
HOUSING AUTHORITY MISSION STATEMENT .....	1
AUTHORITIES FOR POLICIES IN THE ADMINISTRATIVE PLAN.....	1
LOCAL GOALS .....	2
OVERVIEW OF THE HCV PROGRAM .....	3
PURPOSE OF THE ADMINISTRATIVE PLAN .....	4
RULES AND REGULATIONS .....	4
ADMINISTRATIVE FEE RESERVE.....	5
TERMINOLOGY .....	5
MANAGEMENT ASSESSMENT OBJECTIVES.....	6
RECORDS FOR MONITORING PHA PERFORMANCE .....	7
PRIVACY RIGHTS .....	7
FAMILY OUTREACH .....	7
OWNER OUTREACH.....	8
<b>CHAPTER 2 FAIR HOUSING AND EQUAL OPPORTUNITY.....</b>	<b>2-1</b>
INTRODUCTION.....	10
FAIR HOUSING POLICY.....	10
REASONABLE ACCOMMODATIONS POLICY.....	13
<b>CHAPTER 3 ELIGIBILITY FOR ADMISSION .....</b>	<b>3-1</b>
INTRODUCTION.....	20
DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS .....	20
FAMILY COMPOSITION.....	21
ELIGIBILITY CRITERIA.....	24
INCOME ELIGIBILITY AND TARGETING.....	25
MANDATORY SOCIAL SECURITY NUMBERS .....	26
CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS.....	26
FAMILY CONSENT TO RELEASE OF INFORMATION.....	28
STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION.....	28
OTHER CRITERIA FOR ADMISSIONS AND REASONS FOR DENIAL .....	31
SCREENING FOR ELIGIBILITY .....	32
PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING.....	34
CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT .....	35
PROHIBITED ADMISSIONS CRITERIA.....	35
<b>CHAPTER 4 APPLICATIONS, WAITING LIST, AND TENANT SELECTION .....</b>	<b>4-1</b>
INTRODUCTION.....	36
THE APPLICATION PROCESS.....	36
MANAGING THE WAITING LIST .....	43
SELECTION FOR HCV ASSISTANCE .....	46

**CHAPTER 5 BRIEFINGS AND VOUCHER ISSUANCE ..... 5-1**

INTRODUCTION..... 52  
BRIEFINGS ..... 52  
FAMILY OBLIGATIONS..... 56  
SUBSIDY STANDARDS..... 58  
ISSUANCE OF VOUCHERS..... 62

**CHAPTER 6 INCOME AND SUBSIDY DETERMINATION ..... 6-1**

INTRODUCTION..... 65  
ANNUAL INCOME..... 65  
DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT ..... 66  
CALCULATING ANNUAL INCOME ..... 69  
MINIMUM INCOME..... 71  
INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME..... 71  
EARNED INCOME ..... 71  
EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES ..... 73  
BUSINESS INCOME ..... 73  
STUDENT FINANCIAL ASSISTANCE..... 75  
LUMP-SUM PAYMENTS..... 81  
ALIMONY AND CHILD SUPPORT ..... 82  
REGULAR CONTRIBUTIONS AND GIFTS..... 84  
ASSETS..... 89  
ADJUSTED INCOME ..... 97  
CALCULATING FAMILY SHARE AND PHA SUBSIDY ..... 106  
UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS ..... 108

**CHAPTER 7 VERIFICATION PROCEDURES ..... 7-1**

INTRODUCTION..... 110  
GENERAL VERIFICATION REQUIREMENTS ..... 111  
ITEMS TO BE VERIFIED..... 118  
INCOME..... 119  
ASSETS..... 124  
VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME..... 126  
VERIFYING NONFINANCIAL FACTORS..... 130  
VERIFICATION OF WAITING LIST PREFERENCES ..... 136

**CHAPTER 8 REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION**

**..... 8-1**

INTRODUCTION..... 138  
REQUEST FOR TENANCY APPROVAL..... 138  
ELIGIBLE TYPES OF HOUSING..... 139  
LEASE REVIEW..... 139  
SEPARATE AGREEMENTS ..... 141  
INITIAL INSPECTIONS..... 142  
RENT LIMITATIONS ..... 142  
DISAPPROVAL OF PROPOSED RENT ..... 142  
INFORMATION TO OWNERS..... 142

OWNER DISAPPROVAL.....	143
CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE .....	143
CONTRACT EXECUTION PROCESS .....	143
CHANGE IN OWNERSHIP.....	143

**CHAPTER 9 HOUSING QUALITY STANDARDS AND INSPECTIONS ..... 9-1**

TYPES OF INSPECTIONS .....	145
GENERAL HUD REQUIREMENTS.....	148
ADDITIONAL LOCAL REQUIREMENTS .....	149
EMERGENCY REPAIR ITEMS .....	150
CONSEQUENCES IF OWNER IS RESPONSIBLE (NONEMERGENCY ITEMS) .....	152
DETERMINATION OF RESPONSIBILITY .....	153
CONSEQUENCES IF FAMILY IS RESPONSIBLE .....	153

**CHAPTER 10 OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS..... 10-1**

RENT REASONABLENESS.....	154
RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM .....	154
MAKING PAYMENTS TO OWNERS.....	154
RENT REASONABLENESS DETERMINATIONS .....	155
PAYMENT STANDARDS FOR THE VOUCHER PROGRAM.....	157
ADJUSTMENTS TO PAYMENT STANDARDS .....	157
OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM .....	159

**CHAPTER 11 RECERTIFICATIONS..... 11-1**

INTRODUCTION.....	160
ANNUAL ACTIVITIES .....	160
ANNUAL REEXAMINATION/REEXAMINATION .....	160
STREAMLINED INCOME DETERMINATION FOR FIXED INCOME SOURCES.....	164
REPORTING INTERIM CHANGES .....	166
OTHER INTERIM REPORTING ISSUES .....	166
TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS).....	170
INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS.....	172
NOTIFICATION OF RESULTS OF REEXAMINATIONS.....	174
CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES.....	175
CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES.....	175
MISREPRESENTATION OF FAMILY CIRCUMSTANCES.....	175

**CHAPTER 12 MOVES WITH CONTINUED ASSISTANCE AND PORTABILITY ..... 12-1**

INTRODUCTION.....	176
ALLOWABLE MOVES .....	176
PORTABILITY .....	177
OUTGOING PORTABILITY.....	177
PROCEDURE FOR MOVES OR PORTS.....	178
RESTRICTIONS ON MOVES AND PORTS.....	178
INCOMING PORTABILITY .....	179

## **CHAPTER 13 TERMINATION OF ASSISTANCE AND TENANCY**

GROUNDS FOR TERMINATION OF ASSISTANCE .....	183
APPROACH TO TERMINATION OF ASSISTANCE.....	188
ALTERNATIVES TO TERMINATION OF ASSISTANCE .....	189
CRITERIA FOR DECIDING TO TERMINATE OR DENY ASSISTANCE .....	189
TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING .....	191
TERMINATION NOTICE.....	194
HOW TERMINATION AFFECTS THE HAP CONTRACT AND LEASE.....	195
TERMINATION OF TENANCY BY THE OWNER .....	195
EVICTION.....	197
DECIDING WHETHER TO TERMINATE TENANCY.....	198

## **CHAPTER 14 OWNER DISAPPROVAL, RESTRICTION, AND DEBTS OWED TO THE PHA..... 14-1**

INTRODUCTION.....	199
DISAPPROVAL OF OWNER .....	199
OWNER RESTRICTIONS AND PENALTIES.....	200
OWNER DEBTS TO THE PHA .....	201

## **CHAPTER 15 PROGRAM INTEGRITY ..... 15-1**

INTRODUCTION.....	202
PREVENTING ERRORS AND PROGRAM ABUSE .....	202
DETECTING ERRORS AND PROGRAM ABUSE.....	203
INVESTIGATING ERRORS AND PROGRAM ABUSE.....	204
FAMILY DEBTS TO THE PHA.....	205
REPAYMENT AGREEMENT FOR FAMILIES .....	205
DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION.....	207
GUIDELINES FOR REPAYMENT AGREEMENTS .....	207
DE MINIMIS ERRORS.....	208

## **CHAPTER 16 COMPLAINTS AND APPEALS..... 16-1**

INTRODUCTION.....	209
COMPLAINTS TO THE PHA.....	209
PREFERENCE DENIALS .....	209
INFORMAL REVIEW PROCEDURES FOR APPLICANTS.....	210
INFORMAL HEARING PROCEDURES.....	211
HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" .....	215
MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES .....	216

## **CHAPTER 17 SPECIAL HOUSING TYPES ..... 17-1**

INTRODUCTION.....	217
SINGLE ROOM OCCUPANCY .....	217
CONGREGATE HOUSING .....	217
GROUP HOMES .....	218
MANUFACTURED HOMES.....	219

**ADDENDUM A – Family Self-Sufficiency Action Plan**

**ADDENDUM B – Emergency Transfer Plan for Victims of Domestic Violence,  
Dating Violence, Sexual Assault, or Stalking**

DRAFT

## CHAPTER 1

### OVERVIEW OF THE PROGRAM AND PLAN

#### INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodifies the U.S. Housing Act of 1937. The Act and its requirements have been amended from time to time, as they apply to the Section 8 Housing Choice Voucher (HCV) Program and are described in and implemented throughout this Administrative Plan. The Public Housing Authority (PHA) receives its funding for the HCV Program from the U.S. Department of Housing and Urban Development (HUD). The PHA is not a federal department or agency. A PHA is a governmental or public body, created and authorized by state law to develop and operate housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations, and notices, and must establish policies and procedures to clarify federal requirements and ensure consistency.

On July 29, 2016, the Housing Opportunity through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA makes numerous amendments to Sections 2, 8, and 16 of the United States Housing Act of 1937, including changes to income calculation, net family assets, and income reviews. HUD finalized rulemaking in 2023 to put Sections 102, 103, and 104 into effect through revisions to HUD's regulations found in 24 CFR Part 5. On September 29, 2023, HUD issued notice PIH 2023-27 that provided guidance to PHAs on the implementation of program changes described in the Final Rule. Carroll County Housing has updated a draft of our Administrative Plan to reflect HOTMA changes to income and net family assets. These changes will be effective, the later of January 1, 2025 (or such other date published by HUD) or upon the implementation of HIP (Housing Information Portal) and updates to Carroll County Housing's applicable software. Until such time, the approved FY 2023 Administrative Plan will continue to be in effect.

Carroll County's HCV Program is administered by Carroll County Housing and Community Development, an operating unit of the Carroll County Department of Citizen Services. Carroll County Housing operates the HCV Program, including the Family Self-Sufficiency Program, in partnership with other county departments, local governments, and community organizations to develop and coordinate services, programs, and housing for low- and moderately low-income residents of Carroll County. Carroll County Housing administers its HCV Program in compliance with HUD's Section 8 regulations, in conjunction with all federal, state, and local fair housing laws and regulations. The jurisdiction of the PHA is Carroll County, Maryland (other than the City of Westminster).

#### HOUSING AUTHORITY MISSION STATEMENT

Carroll County Housing and Community Development's mission is to promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination to eligible low- and moderately low-income persons who live or work in Carroll County, Maryland. To encourage economic self-sufficiency among participating

families while managing resources efficiently.

## **AUTHORITIES FOR POLICIES IN THE ADMINISTRATIVE PLAN**

The authority for PHA policies is derived from many sources. The primary sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

### **HUD Regulations and Guidance**

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

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations, and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance is referred to by HUD as “safe harbor.”

### **State Law**

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

### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

## **LOCAL GOALS [29 CFR 982.1]**

As a public service agency, the PHA is committed to providing excellent service to Housing Choice Voucher Program participants, owners, and to the community. The PHA’s standards include:

- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- To provide decent, safe and sanitary housing for low and very low-income families while maintaining rent payments at an affordable level.



- To provide quality housing in choice neighborhoods that consistently meets or exceeds Housing Quality Standards (HQS) as set forth by HUD.
- To ensure that families pay fair and reasonable rents.
- To promote fair housing and the opportunity for low- and moderately low-income families of all ethnic backgrounds to experience freedom of housing choice.
- To promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to low- to moderately low- income families.
- To assist the local economy by maintaining the occupancy rate and the amount of money flowing into the community.
- To encourage self-sufficiency of participant families and assist in the expansion of family opportunities that address educational, socioeconomic, recreational, and other human services' needs.
- To create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components in order to achieve the highest possible performance indicators according to the Section 8 Management Assessment Program (SEMAP).
- To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

## **OVERVIEW OF THE HCV PROGRAM**

The purpose of the HCV Program is to provide rental assistance to eligible families. The rules and regulations of the program are determined by HUD. The PHA is afforded choices in the operation of the program, which are included in the PHA's Administrative Plan. The HCV Program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA'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 PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA 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 PHA continues to make payments to the owner as long as the family is eligible, and the housing unit continues to

qualify under the program.

To administer the HCV program, the PHA enters into a contractual relationship with HUD through the Annual Contributions Contract. The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit. For the HCV Program to work and be successful, all parties involved—HUD, the PHA, the owner, and the family—have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

### **PURPOSE OF THE ADMINISTRATIVE PLAN [24 CFR 982.54]**

The purpose of the Administrative Plan is to establish policies for carrying out the HCV Program in a manner consistent with HUD requirements and local goals and objectives contained in the agency plan. The HCV Program was implemented on October 1, 1999. Carroll County Housing is responsible for complying with all changes in HUD regulations pertaining to our programs. If such changes conflict with this plan, HUD regulations will have precedence. The PHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original Administrative Plan and any changes must be approved by the governing body of the agency, the pertinent sections included in the agency plan, and a copy provided to HUD. This Administrative Plan is a supporting document to the PHA agency plan and is available for public review as required by CFR 24 Part 903.

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

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: HCV Program
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

### **RULES AND REGULATIONS [24 CFR 982.52]**

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

### **Mandatory vs Discretionary Policy**

HUD makes a distinction between:

- **Mandatory policies**—those driven by legislation, regulations, current handbooks,

notices, and legal opinions, and

- **Optional, nonbinding guidance**, including guidebooks and notices that have expired, and recommendations from individual HUD staff.

DRAFT

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. The PHA'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.

Creating policies based upon HUD guidance is not mandatory but provides a PHA with a safe harbor. HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA 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.

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

Expenditures from the Administrative Reserve (Operating Reserve) over \$10,000.00 for other housing purposes must be approved by the Carroll County Board of Commissioners and made in accordance with the approved budget.

### **TERMINOLOGY**

The following terms are used frequently within this Administrative Plan:

- **Applicant** refers to a family that has applied for admission to the program but is not yet a program participant.
- **Carroll County Housing and Community Development (Carroll County Housing)** is referred to as the **PHA** or **Public Housing Authority** throughout this document.
- **Family** refers to a person or group of persons, as determined by the PHA, approved to reside in a unit with assistance under the HCV Program. Family may at times be used interchangeably with **applicant** or **participant**.
- **HAP Contract** refers to the Housing Assistance Payments contract.
- **Household** means the family and any PHA-approved live-in aide.
- **HQS** refers to the **Housing Quality Standards** required by regulations and may be enhanced by the PHA.
- **Participant** refers to a family that has been admitted to the PHA program and is currently assisted in the program.
- **Landlord** and **owner** are used interchangeably within this plan.
- **Merger Date** refers to October 1, 1999, the effective date of the merging of the Section 8 Certificate and Voucher Program with the HCV Program.
- **Non-Citizens Rule** refers to the regulation restricting assistance to U.S. citizens and eligible immigrants. This regulation was effective June 19, 1995.

- **PHA** is the Public Housing Authority.
- The **Section 8 Programs** are also known as the **Regular Tenancy Certificate, Over-Fair Market Rent (Over-FMR) Tenancy (OFTO)** and **Voucher Programs**.
- **Tenant** refers to a participant in terms of the relationship to landlord.
- The **Voucher Choice Program** refers to the merged program effective as of August 12, 1999.

## MANAGEMENT ASSESSMENT OBJECTIVES

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

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

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

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

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail. The minimum sample size to be reviewed will relate directly to each factor and will be determined by HUD based on the number of vouchers.

## **RECORDS FOR MONITORING PHA PERFORMANCE**

To demonstrate compliance with HUD and other pertinent regulations, Carroll County Housing will maintain records, reports, and other documentation in accordance with HUD requirements and in a manner that will allow an auditor, PHA professional, or other interested party to follow, monitor, and/or assess the PHA's operational procedures objectively, accurately, and in accordance with SEMAP requirements with internal supervisory audits.

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

Applicants and participants, including all adults in the households, are required to sign the HUD-9886 Authorization for Release of Information and Privacy Act Notice. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/PHA will release family information to third parties. The PHA's policy regarding release of information is in accordance with state and local laws, which may restrict the release of family information.

Any and all information that would lead one to determine the nature and/or severity of a person's disability will be destroyed or returned to the family after its use. Personal information must not be released except on an as-needed basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Housing Program Manager.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location that is only accessible by authorized staff. Carroll County Housing staff will not discuss family information contained in files, except on an as-needed basis for business reasons.

## **FAMILY OUTREACH**

The PHA will publicize information regarding the availability of housing assistance and related services for low- and moderately low-income families on a regular basis. If it becomes necessary to close the waiting list, Carroll County Housing will publicize the closing of the waiting list via newspaper, press release, and other suitable means.

For those who cannot read, Carroll County Housing will distribute fact sheets to the broadcasting media and make public service announcements. PHA personnel will reach out to local human services agencies and attend community outreach events to publicize the HCV Program. The PHA will maintain collaborative relationships with service providers and advise them of housing eligibility factors and guidelines so they can make referrals for housing assistance to low-income families.

Carroll County Housing seeks out opportunities to explain the HCV Program, including equal opportunity requirements and nondiscrimination requirements. Landlords, real estate agents, and organizations that work with low-income families in Carroll County are

kept informed about the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act.

### **OWNER OUTREACH [24 CFR 982.54(d)(5)]**

Carroll County Housing actively engages in outreach to private owners to encourage participation in the HCV Program. Outreach activities include attending local landlord meetings, open houses at the PHA, attending community events, and sponsoring workshops related to legislation about being a landlord. Owners are kept up to date regarding legislative changes in program requirements.

Landlords are encouraged to advertise their available units on a landlord list maintained by Carroll County Housing and post available units in the PHA lobby. Landlords and tenants with vouchers are referred to the following websites:

- [www.mdhousingsearch.org](http://www.mdhousingsearch.org)
- [www.wetakesection8.com](http://www.wetakesection8.com)
- [www.apartmentlist.com](http://www.apartmentlist.com)
- [www.move.com](http://www.move.com)

Carroll County Housing continually looks for ways to improve owner relations and recruit new owners willing to participate in the HCV Program. The PHA regularly engages in the following activities:

- Conducting formal and informal discussions and meetings for existing and prospective landlords.
- Offering quarterly presentations with key speakers on subjects relevant to landlords.
- Distributing marketing materials to acquaint owners and managers with the opportunities available under the program.
- Participating in community-based organizations comprised of private property and apartment owners and managers.
- Recruiting property owners with property located outside areas of minority and poverty concentration and applying for exception payment standards if the PHA determines it is necessary to make the program more accessible in the PHA's jurisdiction.

Carroll County Housing periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of a broad range of areas where they may lease units inside the PHA's jurisdiction. Families are also told about the option of porting to

another PHA that has an HCV Program after leasing up for one year in Carroll County Housing's jurisdiction.

DRAFT



## CHAPTER 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

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

Federal laws require PHAs 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 PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The 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)

When more than one civil rights law applies to a situation, the laws will be read and applied together. Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

The PHA will not use any of the factors related to protected classes and groups of people to:

- Deny to any family the opportunity to apply for housing, not deny to any qualified applicant the opportunity to participate in the HCV or FSS programs
- 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 on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

### **Providing Information to Families and Owners**

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA will provide federal, state, and local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of discrimination. Such information will be made available during the voucher briefing session, and all applicable Fair Housing information and discrimination complaint forms will be made part of the voucher holder's briefing packet and will be available upon request at the front desk.

All PHA staff will be required to attend Fair Housing training that stresses the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the PHA office and interview rooms, and the Equal Opportunity logo will be used on all outreach materials. Staff will attend local Fair Housing training sponsored by HUD and other local organizations to keep current with new developments.

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

The Carroll County Housing office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by Maryland Relay Services.

### **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to 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 PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [29 CFR 982.304]. Upon receipt of a housing discrimination complaint, the PHA 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)

### **Carroll County Housing's Policies Regarding Complaints**

Carroll County Housing may be notified either orally or in writing by applicants or participants who believe that they have been subject to unlawful discrimination.

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

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination. Within 10 business days following the conclusion of the investigation, Carroll County Housing will provide the complainant and those alleged to have violated the rule with findings, and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

Carroll County Housing will keep a record of all complaints, investigations, notices, and corrective actions.

### **REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]**

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

A participant with a disability may ask for a specific change to a policy or practice as an accommodation of the disability. The PHA's policies and practices are designed to provide persons with disabilities reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

The option to request an accommodation will be made public by including notices on PHA forms and letters. This policy is intended to provide persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as individuals without disabilities. This policy is applicable to all situations described in this Administrative Plan, including when a family initiates contact with Carroll County Housing, when Carroll County Housing initiates contact with a family at the time of application, and when the PHA schedules or reschedules appointments of any kind.

Carroll County Housing will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, at voucher briefings, annual reexamination documents, and notices of adverse action by the PHA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please let Carroll County Housing know.”

To be eligible to request a reasonable accommodation, the ADA definition of a disability must apply:

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

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403(a), individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

### **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. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

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

### **Types of Reasonable Accommodations**

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

- Permitting applications and annual 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 PHA range) if the PHA 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 a lack of availability of accessible units or special challenges of the family in seeking a unit; and
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff.

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

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

If the need for the accommodation is not readily apparent or known to the PHA, 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.

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

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will deny the request and/or present an alternate accommodation that will still meet the need of the person. An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation). An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the PHA.

The PHA will provide a written decision to the person requesting the accommodation within 10 days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing with the Director of Citizen Services to review the PHA's decision.

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

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

### **Verification of Disability**

The PHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and ADA. 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 that is used for waiting list preferences and income allowances.

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

If a person's disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required (Joint State 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 PHA, the PHA 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.

### **Accommodations for Applicants**

All persons who wish to apply for any of the PHA's programs must submit a preliminary written application or apply online through Wait List. Written applications can be accessed on the Carroll County Government website at:

<http://ccgovernment.carr.org/ccg>.

Online applications can be accessed at:

[www.WaitListCheck.com](http://www.WaitListCheck.com).

Applications will be made available in an accessible format upon request from a person with a disability.

The full application is to be completed prior to the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicants will then be interviewed by PHA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applicants whether reasonable accommodations are needed.

### **Translation of Documents**

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

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

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language

- Estimated cost to PHA per client of translation of English written documents into the other language
- The availability of local organizations to provide translation services to non-English speaking families
- Availability of bilingual staff or assistance from neighboring PHAs to provide translation for non-English speaking families

**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)

The PHA must approve a request for an accommodation if the following three conditions are met:

1. The request was made by or on behalf of a person with a disability.
2. There is a disability-related need for the accommodation.
3. The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA'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 PHA's program with respect to the number of employees, type of facilities, size of budget, and 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.

Before making a determination whether to approve the request, the PHA 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 PHA may verify the need for the requested accommodation.

After a request for an accommodation is presented, Carroll County Housing will respond, in writing, within 10 business days. If Carroll County Housing 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 PHA's operations), the PHA will discuss with the family 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 Carroll County Housing believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, Carroll County



Housing will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

### **Program Accessibility for Persons with Hearing or Vision Impairments**

HUD regulations require PHAs to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6]. At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

To meet the needs of persons with hearing impairments, Carroll County Housing can provide TTD/TTY (text telephone display/teletype) communication.

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

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

### **Physical Accessibility**

The PHA must comply with regulations pertaining to physical accessibility, including:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1993
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV Program.

When issuing a voucher to a family that includes an individual with disabilities, Carroll County Housing will include a current list of known available accessible units 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. 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.

### **Denial or Termination of Assistance**

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [29 CFR 982.552 (2)(iv)]. When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

Likewise, when a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

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

DRAFT

## CHAPTER 3

### ELIGIBILITY FOR ADMISSION

#### INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV Program meets all eligibility requirements, including individuals approved to join the family after the family has been admitted to the program. The family must provide any information requested by Carroll County Housing to confirm eligibility and determine the level of the family's housing assistance. To be eligible for the HCV Program, the applicant family must:

- Qualify as a family as defined by HUD and the PHA;
- Have income at or below HUD-specified income limits;
- Qualify on the basis of citizenship or eligible immigrant status;
- Provide Social Security Number information for household members; and
- Give written consent for the PHA's collection and use of family information to determine eligibility and level of assistance.
- Not currently be receiving a duplicative subsidy.
- Meet net asset and property ownership restriction requirements.

PHAs are also required to determine that the current or past behavior of household members does not include activities that are prohibited by HUD. Eligibility issues covered in this chapter include:

- Definitions of family and household members
- Eligibility criteria
- Factors related to denial of assistance

#### DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

Eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. Some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. It is important to correctly identify family and household members and to apply HUD's eligibility rules.

Household is a broader term than family in the HCV Program and refers to additional people who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

## **FAMILY COMPOSITION** [24 CFR 982.201(c)]

The applicant must qualify as a family. A family may be a single person or a group of persons, and includes the following:

- A single person, who may be:
- An elderly person (62 or older), near-elderly (50-61), displaced person, disabled person, or any other single person;
- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 CFR U.S.C. 675(5)(H) and is homeless or is at risk of becoming homeless at age 16 or older. A group of persons residing together. Such groups include but are not limited to:
- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family. An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance;
- A near-elderly family;
- A disabled family;
- A displaced family;
- The remaining member of a tenant family;

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home and is not intended to artificially enlarge the space available for other family members.

## **Head of Household** [24 CFR 5.504(b)]

The head of household is the adult member of the family who is designated by the family as the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all responsibilities under the program, alone or in conjunction with a co-head or spouse, and has the legal capacity to enter into a lease under state/local law. An emancipated minor who qualifies under state law will be recognized as head of household.

### **Spouse of Head of Household**

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

### **Co-Head of Household**

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

### **Dependent** [29 CFR 5.603]

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

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

### **Foster Children and Foster Adults**

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

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

Foster children and foster adults who are living with an applicant or participant family are considered household members but not family members and do not have residual rights to the voucher.

### **Full-Time Student** [29 CFR 5.603]

A full-time student 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. Identifying each full-time student is important because each family member that is a full-time student, other than the head, spouse, or co-head, qualifies the

family for a dependent allowance. In addition, the earned income of full-time students is treated differently from the income of other family members.

### **Live-in Aides/Attendants**

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

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

A live-in aide is treated differently than family members; the differences include the following factors:

- Income of the live-in aide is not counted when determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides are not considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the requirements in the live-in aide definition described above.

A live-in aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor. This professional must provide written certification that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61), or disabled. Verification must include the hours the care will be provided.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 2 of this Administrative Plan.

Carroll County Housing has the right to refuse approval (or withdraw its approval) of a live-in aide if that individual:

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

### **Split Households Prior to Voucher Issuance** [24CFR982.315]

When a family on the waiting list splits into two, separate eligible families due to divorce or legal separation, Carroll County Housing will determine the placement of the two families on the waiting list since both families cannot share the same original position on the waiting list. The PHA will make the decision based on the following factors:

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

The family is responsible for any documentation regarding these factors. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by Carroll County Housing.

### **Multiple Families in the Same Household**

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

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. The requirement of 51% of the calendar year is defined as 183 days (184 days in a leap year), which do not have to run consecutively.

When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-aged child as a dependent.

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

### **ELIGIBILITY CRITERIA** [24 CFR 982.201(b)]

Carroll County Housing accepts applications only from families whose head of household or spouse is at least 18 years of age or emancipated minors under state law. To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

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

The family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a voucher.

## **INCOME ELIGIBILITY AND TARGETING**

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 HUD's 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. In order to be income eligible, an applicant family must be one of the following:

- 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 within 120 days of voucher issuance at the time the family is admitted to the HCV Program [24 CFR 982.4].

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

### **Income Limits for Targeting** (24CFR 982.201)



At least 75 percent of the families admitted to Carroll County Housing's program during its fiscal year must be extremely low-income families. Annual income of such families will be verified during eligibility determination. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families. If the family selected from the waiting list exceeds that income limit after failing to report the change of income while they were on the waiting list, they will be returned to the waiting list, if requested.

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

- Families are required to provide verification of Social Security Numbers for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of every Social Security Number is grounds for denial or termination of assistance.
- Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.
- Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days; elderly persons must provide verification within 120 days.

#### **CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR PART 5, SUBPART E]**

To receive assistance, a family member must be a U.S. citizen, national, or eligible noncitizen. Individuals who are neither may elect not to contend their status. Eligible noncitizens are persons who are in one of the immigrant categories as specified by HUD. For the citizenship/eligible immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

#### **Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether they are 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, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

## **U.S. Citizens and Nationals**

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit PHAs to request additional documentation of their status such as a passport. Carroll County Housing might require additional verification if information is received 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 PHA efforts to verify his/her immigration status. 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.

### **Ineligible Noncitizens**

Noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The PHA 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 U.S. 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 applicant families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination.

### **Ineligible Families**

Applicant families that include no eligible members are ineligible for assistance. Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

## **FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9866A, Authorization for the Release of Information/ Privacy Act Notice, and any other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. The Verification chapter provides detailed information concerning the consent forms and other requirements.

Carroll County Housing is required to 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)].

## **STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

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 PHA policy, the income of the student's parents will not be considered in determining the student's eligibility. The new law 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. The following definitions will be used to determine whether and how the new eligibility restrictions apply to a student:

### **Dependent Child**

In the context of the student eligibility restrictions, a dependent child is 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 PHA considers 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 criteria are met:

- The individual is of legal contract age under state law.
- 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 one or more of the following criteria of the U.S. Department of Education's definition of independent student:
  - The individual is at least 24 years old by December 31 of the award year for which aid is sought
  - The individual is an orphan, in foster care, or a ward of the court; or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
  - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
  - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
  - The individual is a graduate or professional student
  - The individual is married
  - The individual has one or more legal dependents other than a spouse (e.g., dependent children or an elderly dependent parent)
  - The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by (1) a local educational agency homeless liaison, (2) the director of a program funded under Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director, (3) a financial aid administrator
  - The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances
- 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.
- If the PHA determines that an individual meets the definition of a vulnerable youth,

that person is considered an independent student for the purposes of using only the student's income for determining eligibility for assistance.

### **Institution of Higher Education**

The PHA will use the statutory definition under Section 102 of the Higher Education Act of 1965 to determine where 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** [24 CFR 5.403]

The PHA 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 military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

### **Vulnerable Youth**

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16, as described above.

### **Determining Student Eligibility**

If a student is applying for assistance on his/her own, apart from his/her parents, the PHA 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 PHA must ensure that (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents 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 any student is subject to the 24 CFR 5.612 restrictions, the PHA will follow its usual policies in determining whether the student individually and the student's family collectively are eligible for the program. Carroll County Housing will also determine whether the student is independent from his/her parents according to the definition of independent student in this section.

If it is determined that the student, the student's parents (if applicable), or the student's family is not eligible, the PHA will send a notice of denial and the applicant family will have the right to request an informal review in accordance with Carroll County Housing policies.

### **Determining Parental Income Eligibility**

If a student is not subject to the 24 CFR 5.612 restrictions and does not qualify as an independent student as described in this section, the PHA will determine the income eligibility of the student's parents as follows:

- The PHA will obtain a joint income declaration and certification of joint income from parents who are married and living together.
- If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.
- The PHA will obtain an income declaration and certification of income from each parent if they are divorced or separated.
- 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 the other parent, the PHA 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 PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

Carroll County Housing will use the income limits for the jurisdiction in which the parents live to determine income eligibility of the student's parents.

### **OTHER CRITERIA FOR ADMISSIONS AND REASONS FOR DENIAL [24 CFR 982.552(b)]**

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past five years. In addition to the HUD eligibility criteria, Carroll County Housing applies the following criteria as grounds for denial of admission to the program:

- If any member of the family has violated any Family Obligations that caused the termination of their assistance during a previous participation in the Section 8 Program or any other federal program within the past five years prior to final eligibility determination.
- If a PHA has ever terminated assistance under the program for any member of the family within the past five years prior to final eligibility determination. Carroll County Housing may make an exception if the family member who violated a Family Obligation is not a current member of the household.
- The family must not owe an outstanding debt to any PHA as a result of prior participation in any federal housing program.

- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family

file/record to the proper authorities for appropriate disposition.

### **Ineligibility Based on Assets [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership:

If the family's net assets exceed \$100,000 (adjusted annually by HUD).

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

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

However, the real property restriction does not apply in the following circumstances:

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

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

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

## **SCREENING FOR ELIGIBILITY [24 CFR 982.307]**

Carroll County Housing will take into consideration the criteria for admission described in the chapter entitled Denial or Termination of Assistance. PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV Program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in criminal activities. In order to obtain access to the records, the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

Carroll County Housing will screen all adult family members 18 years old and older for violent criminal and drug-related activity within the past five years at time of the eligibility briefing under the Maryland Judiciary Case Search and Commonwealth of Pennsylvania.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have lived [24 CFR 982.553(a)(2)(I)]. Carroll County Housing will screen all adult family members 18 years old and older for registration under the National Sex Offenders Registry.

If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)]. Assistance could be denied if it is determined that a household member has engaged in 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.

### **Screening for Suitability as a Tenant [24 CFR 982.307]**

Carroll County Housing will not screen family behavior or suitability for tenancy. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, Carroll County Housing will inform the owner that screening and selection for tenancy is the responsibility of the owner. The owner should consider the following screening factors from 24 CFR 982.307(a) (3):

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health,



safety, or property of others; and

- Compliance with other essential conditions of tenancy.

The voucher briefing packet will state the following information that Carroll County Housing will supply to all owners:

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

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA 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 PHA will advise families how to file a discrimination complaint against an owner. Carroll County Housing will advise the family to file a Fair Housing complaint. The PHA may also report the owner to HUD as a Fair Housing/Equal Opportunity violation or report the owner to the local Fair Housing organization.

### **PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

Section 606(1) of the Violence against Women Reauthorization Act of 2005 (VAWA) prohibits the PHA from denying admission to an applicant who otherwise qualifies for the public housing program on the basis that the applicant is a victim of domestic violence, dating violence or stalking. Section 606(1) further stipulates that any provision of any federal, state, or local law that provides greater protection to such a victim takes precedence over VAWA.

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

The documentation must include the following two elements:

1. A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and
2. One of the following:

- A police or court record documenting the actual or threatened abuse, or
- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The applicant must submit the required documentation with her or his request for an informal review or must request an extension in writing at that time. If the applicant so requests, the PHA will grant an extension of 10 business days and will postpone scheduling the applicant's informal review until after it has received the documentation provided by the applicant. If the PHA determines the family is eligible for assistance, no informal review will be scheduled and the PHA will proceed with admission of the applicant family.

### **CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT**

Changes that occur during the period between issuance of a voucher and lease-up may affect the family's eligibility or share of the rental payment.

### **PROHIBITED ADMISSIONS CRITERIA [982.202(b)]**

Admission to the program will not be based on:

- The family's residence prior to admission. However, the PHA may adopt a residency preference.
- Where the family will live with assistance under the program.
- Discrimination because of age, race, color, religion, sex, or national origin.
- Discrimination because of disability.
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Discrimination because a family includes children.
- Whether a family decides to participate in a family self-sufficiency program; or
- Other reasons as listed in the Chapter 2, Fair Housing and Equal Opportunity

## CHAPTER 4

### APPLICATIONS, WAITING LIST, AND TENANT SELECTION

#### INTRODUCTION

When a family applies for assistance under the HCV Program, the PHA must request the information needed to determine the family's eligibility. Families that apply for assistance are placed on a waiting list. When HCV assistance becomes available, Carroll County Housing must select families from the waiting list in accordance with HUD regulations and PHA policies described in this Administrative Plan.

Carroll County Housing has policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list. The order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

Adhering to the selection policies in this chapter helps to ensure that Carroll County Housing will be in compliance with all relevant fair housing requirements. The following policies are addressed in this chapter:

- **The Application Process**—this section provides an overview of the application process and discusses obtaining and submitting applications. It also explains how Carroll County Housing processes applications.
- **Managing the Waiting List**—this section details the policies that govern how the 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 PHA follows to keep the waiting list current.
- **Selection for HCV Assistance**—this section describes policies that guide the PHA in selecting families for HCV assistance when funding becomes available. It also specifies how in-person interviews will ensure that the PHA has sufficient information to make a final eligibility determination.

#### THE APPLICATION PROCESS

This section describes the policies for making applications available, accepting applications, making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This section also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with Limited English Proficiency (LEP).

Families who wish to apply for the HCV Program must complete a written application form or apply online through WaitList Check. HUD permits the PHA to determine the format and content of the HCV application, as well as how applications are made available, and how

applications will be accepted. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application. Applications will be made available in an accessible format upon request from a person with a disability.

Paper applications are available at the office of Carroll County Housing; through a link on the Carroll County Government website (<http://www.carrollcountymd.gov>); or can be mailed, faxed, or emailed upon request. Online applications can be completed on the computer in the housing office at 10 Distillery Drive, or via any device with internet access at the following website: [www.WaitListCheck.com](http://www.WaitListCheck.com). This initial application is sometimes referred to as a preapplication.

Completed applications can be returned to the PHA by mail, email, fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information needed.

The purpose of the preapplication is to permit the PHA to preliminarily assess family eligibility or ineligibility, and to determine placement on the waiting list. Preapplications request sufficient information to determine:

- Head of household name as well as all household members
- Family unit size (this is the number of bedrooms the family qualifies for under Carroll County Housing's subsidy standards)
- Date and time of application
- Qualification for any local preferences
- Racial or ethnic designation of the head of household
- Annual (gross) family income

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved based on the information contained on the preapplications.

## **Accessibility of the Application Process**

Carroll County Housing ensures that the application process is accessible to those who might have difficulty complying with the normal PHA application process, including people with disabilities, certain elderly individuals, as well as persons with limited English proficiency. The PHA must provide reasonable accommodations for individuals with disabilities. Carroll County Housing's office and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of policies related to providing reasonable accommodations for people with disabilities.

## **Special Admissions** [24CFR 982.54(d)(e), 982.203]

HUD may periodically award funding that is targeted for specific families. Carroll County Housing must then use the assistance for those families under Special Admission procedures. Special Admissions require a referral from a partnering agency and families are subject to standard HCV eligibility.

Special Admissions families will be placed on the waiting list. The PHA maintains separate records of these admissions. The sections below describe situations in which funding may be designated by HUD for specific families.

## **Veterans Affairs Supportive Housing (VASH)**

Fifteen VASH vouchers are selected by a referral from the VA Maryland Health Care Systems (VAMHCS) – Baltimore VA Medical Center. The HUD-VASH Program combines the Department of Housing and Urban Development (HUD) Housing Choice Voucher (HCV) rental assistance for homeless veterans and their families with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers and in the community.

## **Family Unification Program (FUP)**

Thirty-two FUP vouchers are selected by a referral from Department of Social Services and must meet preferences. FUP vouchers are for families whose lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child or children, to the family from out-of-home care. FUP vouchers are also issued for youths of at least 18 years old and not more than 24 who do not have adequate housing and who left foster care or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5)(H) of the Social Security Act and are homeless or at risk of becoming homeless at age 16 or older. A FUP youth voucher must not exceed 36 months unless the youth enters into a Contract of Participation with the Family Self-Sufficiency Program (FSS) or if unable to enroll in FSS, engages in education, workforce development, or employment activities. FUP youth may also receive an extension of assistance if they meet one of the following statutory exceptions:

- Is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person;
- Is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or
- Is a person who is incapable of complying with the requirement to participate in an FSS program or engage in education, workforce development, or employment activities, as applicable, due to a documented medical condition.

### **Mainstream Vouchers**

One hundred nine Mainstream Vouchers enable families having a nonelderly adult with disabilities (18 to 61 years old) to lease affordable private housing of their choice. Nonelderly persons who turn 62 after receiving a Mainstream Voucher will not lose assistance. Mainstream Vouchers assist persons with disabilities who must also meet one of the following (see corresponding definitions below):

- Transitioning out of an institutional setting (such as a nursing home)
- At serious risk of institutionalization
- Homeless
- At risk of becoming homeless

The Mainstream Voucher Program also helps to further the goals of the Americans with Disabilities Act by helping persons with disabilities live in the most integrated setting. The program encourages partnerships with health and human services agencies with a demonstrated capacity to coordinate voluntary services and supports to enable individuals to live independently in the community. Verification of transitioning out of an institution or other segregated setting, at serious risk of institutionalization, or homelessness will be required.

### **HUD's definitions related to eligibility for the Mainstream Voucher Program**

**A nonelderly person with disabilities** is a person 18 years of age or older and less than 62 years of age, and who:

- Has a disability as defined in 42 U.S.C. 423
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
  - Is expected to be of long-continued and indefinite duration;
  - Substantially impedes his or her ability to live independently, and

- Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- Has a developmental disability as defined in 42 U.S.C. 6001.

**Institutional or other segregated settings include, but are not limited to:**

- Congregate settings populated exclusively or primarily with individuals with disabilities;
- Congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
- Settings that provide for daytime activities primarily with other individuals with disabilities.

**At serious risk of institutionalization includes:**

- An individual with a disability who as a result of a public entity's failure to provide community services or its cut to such services will likely cause a decline in health, safety, or welfare that would lead to the individual's eventual placement in an institution.
- Individuals experiencing lack of access to supportive services for independent living, long waiting lists for or lack of access to housing combined with community-based services for independent living.

A person cannot be considered at serious risk of institutionalization unless the person has a disability. An individual may be designated as at serious risk of institutionalization either by a health and human services agency, by a community-based organization, or by self-identification.

**Homeless is defined as:**

- An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
  - An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
  - An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by

charitable organizations or by federal, state, or local government programs for low-income individuals); or

- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- An individual or family who will imminently lose their primary nighttime residence, provided that:
  - The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - No subsequent residence has been identified; and
  - The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.
- Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - Are defined as homeless under Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), Section 637 of the Head Start Act (42 U.S.C. 9832), Section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), Section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), Section 17(b) of the Child Nutrition Act of 1996 (42 U.S.C. 17860), or Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or



- An individual or family who:
  - Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;
  - Has no other residence; and
  - Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

**At risk of becoming homeless is an individual or family who:**

- Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph 1 of the "Homeless" definition in this section; and
- Meets one of the following conditions:
  - Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
  - Is living in the home of another because of economic hardship;
  - Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;
  - Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, state, or local government programs for low-income individuals;
  - Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
  - Is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  - Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

## **Homeless Vouchers**

Carroll County Housing allows a homeless admission preference on the HCV waiting list for a limited number of vouchers. Carroll County has been working with the Continuum of Care and local homeless shelters to address housing needs identified by the community.

Five vouchers are provided for families that are in the shelter system that is operated by Human Services Program (HSP) of Carroll County. These families must meet the criteria for the HCV Program and verify prior residency in Carroll County for at least six months prior to the family's admission into the shelter program. HSP will submit a referral to Carroll County Housing indicating that they have met all the criteria outlined for the preference, as well as basic criteria for determining eligibility for the HCV Program. The families must apply to the HCV waiting list if they are not currently on the list. HSP will continue to work with these families to remain housed and to assist in locating a unit and following up on all aspects of the program and leasing.

Carroll County Housing has adopted HUD's Moving On strategies and framework to provide support to families in Rapid Rehousing or Permanent Supportive Housing programs by collaborating with Continuum of Care community partners. Transitioning these families to Housing Choice Vouchers can promote tenant choice, success, and mobility. This framework helps to promote housing stability and end chronic homelessness.

Carroll County Housing receives referrals from the county's Coordinated Entry agency for 25 vouchers for the Moving On strategy for the Rapid Rehousing and Permanent Supportive Housing programs. Five of these vouchers will be reserved for older adults (age 62 and older) from the Adult-Only Shelter. Additionally, Carroll County Housing will receive five more referrals for the Youth Rapid Rehousing Program. Caseworkers ensure these individuals are successful in not only receiving housing assistance but also being able to maintain their eligibility.

## **MANAGING THE WAITING LIST**

The PHA must have policies regarding organizing and managing the waiting list of applicant families, including:

- Opening the list to new applicants
- Closing the list to new applicants
- Notifying the public of waiting list openings and closings
- Updating the waiting list
- Purging the list of families that are no longer interested in or eligible for assistance
- Conducting outreach to ensure a sufficient number of applicants

### **Opening and Closing the Waiting List** [24 CFR 982.206, 982.54(d)(1)]

The PHA may stop accepting applications if there are enough applicants to fill anticipated openings for the next 12 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws. The PHA will announce the closing of the waiting list by public notice, including the local newspaper, Carroll County Government website, service providers, and community-based agencies such as Human Services Programs. Thirty days' notice will be given prior to opening or closing the list.

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in the local newspaper and other suitable media outlets. Notices about reopening the waiting list must comply with HUD fair housing requirements, and will include the following information:

- The dates, times, and the locations where families may apply, including being able to apply online through WaitList Check.
- A brief description of the HCV Program, including eligibility requirements and local preferences.
- Limitations, if any, on who may apply.

When the waiting list is open, applications are grouped based on preferences, and applicants are ranked within each group by date and time of application. If an applicant family is determined to be ineligible based on the information provided in the preapplication, the PHA will notify the family in writing and state the reason(s) for ineligibility.

### **Applicant Status While on the Waiting List** [CFR 982.204]

Information on preapplications is not verified and an interview is not required at that time. If after a review of the preapplication the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation. The notice will be sent by First Class mail and will contain the approximate timeframe that assistance may be offered. Factors such as turnover and available funding will be explained.

While the family is on the waiting list, the family must immediately inform Carroll County Housing of changes in contact information, address, income, and household composition. Changes must be submitted in writing. Applicants are also required to respond to requests from the PHA to update information on their application and to determine their interest in assistance.

### **Purging the Waiting List** [24 CFR 982.204(c)]

The waiting list will be updated annually to ensure that all applicants and applicant information is current. To update the waiting list, Carroll County Housing will send an update request via First Class mail to each family on the waiting list to determine if the family is still interested in and qualifies for the HCV Program. This update request will be sent to the last address on record that the PHA has 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 following steps will be taken following the mailing of the update request:

- The family must respond in writing, and it may be returned in person, by mail, or by fax. Responses should be postmarked or received by the PHA not later than 10 working days from the date of the PHA letter.
- If the family fails to respond within 10 working days, the applicant will be sent final written notification and given an additional 10 working days to contact the PHA. If they fail to respond within 10 working days, they will be removed from the waiting list.
- 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, and the envelope and letter will be maintained in the file.
- If the notice is returned by the post office with a forwarding address, the notice will be mailed to the address indicated. The family will have 10 working days to respond from the date the letter was mailed a second time.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Program Manager determines there were circumstances beyond the person's control.

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 PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(20)].

### **Removal from the Waiting List**

If at any time an applicant family is on the waiting list and the PHA determines that the family is not eligible for assistance, the family will be removed from the waiting list. If Carroll County Housing determines that a 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 give instructions on how to request an informal review regarding the PHA's decision [24 CFR 982.201(f)].

## **SELECTION FOR HCV ASSISTANCE**

When there is insufficient funding available, no applicants are selected from the waiting list. As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this section of the Administrative Plan. The order in which families are selected from the waiting list depends on the selection preferences for which the family qualifies and the availability of any targeted funding. PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Based on the PHA's turnover and the availability of funding, groups of families will be selected from the waiting list to form a final eligibility "call in." Selection from the pool will be based on an eligibility meeting and completion of verification.

### **Income Targeting** [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV Program during the PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA may select ELI families ahead of other families on the waiting list. The PHA will monitor progress in meeting the ELI requirement throughout the fiscal year.

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.

### **Local Preferences**

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those preferences/criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits PHAs to establish other local preferences at its discretion. Carroll County Housing's preferences are based on local housing needs and priorities that can be documented by generally accepted data sources. HUD Notice PIH 98-64 eliminated the requirement for public notice and a period for public comment when changing the PHA's preference system. If an applicant makes a false statement in order to qualify for a local preference, the PHA will deny the family admission to the program.

An applicant will not be granted any local preference if any member of the family has been evicted from housing assisted under a 1937 Housing Act program during the past five years because of drug-related criminal activity. Carroll County Housing will grant an exception to such a family if the responsible member has successfully completed a rehabilitation program and the evicted person clearly did not participate in or know about the drug-related activity.

Carroll County Housing has the following local preferences, in the following order:

### **1. Families Living or Working in Carroll County**

- **Elderly**—An elderly family is one in which the head, spouse, co-head, or sole member is 62 years or older.
- **Disability**—families with a head of household or spouse of the head of household is a person with a disability. Proof of disability will be required at time of selection from the waiting list. HUD regulations prohibit admission preferences for specific types of disabilities.
- **Veterans**—individuals who can prove they served in active duty in the Armed Forces.
- **Homeless**—an individual who is currently homeless and able to verify prior residency in Carroll County.
- **Permanent Supportive Housing**—families who have been homeless who are now in this federal program in Carroll County.
- **Victims of Domestic Violence**—a limited preference of two vouchers will be provided for referrals from a designated local domestic violence organization.
- **All others**

### **2. Families Not Living or Working in Carroll County**

- **Elderly**—An elderly family is one in which the head, spouse, co-head, or sole member is 62 years or older.
- **Disability**—families with a head of household or spouse of the head of household is a person with a disability. Proof of disability will be required at time of selection from the waiting list. HUD regulations prohibit admission preferences for specific types of disabilities.
- **Families with Children**
- **Families with Two or More Persons**
- **All others**

### **Treatment of Single Applicants**

Applicants who are elderly or disabled, or displaced families of no more than two persons will be given a selection priority over all "Other Single" applicants regardless of preference status. "Other Singles" denotes a one-person household in which the individual member is not elderly, disabled, or displaced by government action. Such applicants will be placed on the waiting list in accordance with any other preferences to which they are entitled, but they cannot be selected for assistance before any one- or two-person elderly, disabled, or displaced family regardless of local preferences.

### **Initial Determination of Local Preference Qualification** [24 CFR 982.207]

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

Families whose head of household, spouse, or co-head live or work in the jurisdiction of Carroll County must provide one or more of the following documents:

- Rent receipts pre-printed with landlord's information
- Current lease
- Current utility bill
- Employer or agency records indicating a current local address for the applicant and/or employer.

If claiming employment to meet the preference, the employment must be paid, verifiable, and reported to all applicable agencies (i.e., IRS, TANF, etc.). If an applicant is on temporary disability from the job that is the qualification for this preference, the applicant must still be employed by the company and eligible to return upon medical reinstatement.

For families whose head of household, spouse, or co-head has been hired to work in Carroll County, third-party verification from the employer or statement on company letterhead will be required.

### **Targeted Funding** [24 CFR 982.203]

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

### **Order of Selection** [24 CFR 982.207(e)]

Families will be selected from the waiting list based on the selection preference(s) for which they qualify, and in accordance with Carroll County Housing's hierarchy of

preferences, if applicable. Within each preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application was received. Carroll County's selection process leaves a clear audit trail that can be followed to verify selection was in accordance with this Administrative Plan.

### **Change in Circumstances**

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the PHA in writing when their circumstances change. For example, if the family's annual income, as verified at final eligibility determination, does not fall under the ELI limit and the family was selected for income targeting purposes before families with a higher preference, the family will be returned to the waiting list.

When an applicant claims an additional preference, he or she will be placed on the waiting list in the appropriate order determined by the newly claimed preference.

### **Preference Denial** [24 CFR 982.207]

If the PHA denies a preference, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for a review by the Bureau Chief. If the preference denial is upheld as a result of the review, or the applicant does not request a review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against. If an applicant falsifies documents or makes false statements in order to qualify for any preference, he or she will be removed from the waiting list.

### **Notification of Selection** [24 CFR 982.554(a)]

Carroll County Housing will notify a family by First Class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the application/eligibility interview, including procedures for rescheduling, if necessary.
- Who is required to attend the interview.
- The full application/affidavit that is to be completed by the head of household in his or her own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. This full application is to be returned to Carroll County Housing within 10 working days, prior to the interview.
- Documents that must be provided at the interview, including information about what constitutes acceptable documentation.



If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. A notice of denial will be sent to the family's address of record, as well as to any known alternate addresses.

### **Completion of Full Application and Eligibility Interview**

Carroll County Housing conducts a face-to-face interview to make an eligibility determination. Being invited to an interview does not guarantee admission to the program. Assistance cannot be provided until all Social Security Number documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA (Notice PIH 2012-10). Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

All adult family members will be required to attend the interview. Exceptions may be made for full-time students or for members for whom attendance would be a hardship. Verification of information pertaining to adults not present at the interview will not begin until signed release forms are returned to the PHA.

If an applicant fails to appear for an eligibility interview, Carroll County Housing will schedule a second appointment. If the applicant misses the second appointment without prior approval, the application will be denied. The applicant will be notified in writing about the denial and be offered an opportunity to request an informal review.

Reasonable accommodation will be made for persons with a disability who require an advocate. A designee will be allowed to participate in the interview process, but only with permission and request of the person with a disability. An advocate, interpreter, or other assistant may assist the family with the application and interview process.

All adult members must sign HUD- 9886, Authorization for the Release of Information and Privacy Act Notice. HOTMA eliminated the requirement to sign this annually and as of January 1, 2024, all adult program participants will sign the new Form HUD-9886A once. Executed HUD-9886As remain effective until an applicant is denied assistance, a participating family is terminated, or the family provides written notification to Carroll County Housing to revoke consent. Within 10 working days of the date the family provides written notice, Carroll County Housing will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, Carroll County Housing will notify the local HUD field office.

In addition to the HUD-9886A, all adult members must sign the application and all supplemental forms required by the PHA. The declarations and consents related to citizenship/immigration status must also be signed. If required documents are not provided at the time of the eligibility interview, the head of household will have 10 working days to submit completed paperwork. Failure to complete and/or sign required documents will be cause for denial of the application. Every adult household member must

sign a consent form to release criminal conviction records and to allow PHAs to receive records and use them in accordance with HUD regulations.

If Carroll County Housing determines at or after the interview that additional information or document(s) are needed, the PHA will request the additional information be provided within 10 working days. If the information is not supplied in this time period, the PHA may notify the family that assistance is denied.

**Final Determination and Notification of Eligibility** [24 CFR 982.201]

Carroll County Housing will make a final determination of eligibility after the verification process is completed. The following criteria will be verified:

- Local preference
- Legal identity
- Family composition and type
- Annual income (including assets and asset income)
- Deductions from annual income
- Social Security numbers for all family members
- Information used in applicant screening
- Citizenship or eligible immigration status
- Criminal history
- Prior debt to a federally and/or state-assisted housing program
- Prior tenancy in federally assisted housing
- Ownership interest in real property

Eligibility decisions are based upon HUD regulations, information provided by the family, verification procedures completed by the PHA, and current eligibility criteria. Verifications may not be more than 60 days old when the voucher is issued.

Following this, if the family is determined to be eligible, the PHA will mail a notification of eligibility. The family will then be scheduled to attend a briefing to receive its voucher and participate in an orientation to the HCV Program.

## 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 HCV Program, the PHA 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 a mandatory oral briefing and provision of a briefing packet containing HUD-required documents and other information the family needs to know in order to lease a unit under the program. The information presented in the briefing regarding the program will enable families to achieve maximum benefit while complying with program requirements. The briefing will provide a broad description of owner and family responsibilities, PHA procedures, and how to lease a unit. Information in the briefing packet includes the benefits of moving outside areas of poverty and minority concentration.

Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on Carroll County Housing'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 PHA policies related to the following two topics:

- **Briefings and Family Obligations**—This part details the program's requirements for briefing families orally, and for providing written materials describing the program, its requirements, and the Family Obligations.
- **Subsidy Standards and Voucher Issuance**—This part discusses Carroll County Housing'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 covers the policies that dictate how vouchers are issued, and how long families have to locate a unit.

#### BRIEFINGS

PHAs are required to give an oral briefing and provide a briefing packet with written information about the program to families who are determined to be eligible for assistance. Families will usually be briefed in groups, but an individual briefing may occasionally be held, if necessary. At the briefing, Carroll County Housing must ensure effective communication in accordance with Section 504 of the Rehabilitation Act of 1973. (Refer to Chapter 2 for a complete discussion of accessibility requirements.) Oral briefings may be conducted telephonically or via a virtual meeting platform.

## **Notification and Attendance**

When the family is notified of their eligibility to receive assistance, the notice will include the date and time for a scheduled briefing, as well as who is required to attend. Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the PHA may approve another adult family member or other authorized or verified representative to attend the briefing. If the notice is returned by the post office, the applicant will be denied, and their name will not be placed back on the waiting list.

The PHA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two scheduled briefings, without prior notification and approval of the PHA, may be denied admission.

Briefings will be conducted in English. A special briefing will be scheduled at the request of a family with limited English proficiency. Carroll County Housing will supply an interpreter or interpreting device as necessary. If the family includes a person with disabilities, the PHA will ensure compliance with CFR 8.6 to ensure effective communication.

## **Oral Briefing Subjects** [24 CFR 982.301(a)]

Each briefing will provide information on the following subjects:

- How the HCV Program works.
- Owner and tenant responsibilities.
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction after one year in Carroll County Housing's jurisdiction.
- The term of the voucher and the PHA policy for requesting extensions or suspensions of the voucher.
- A description of the method used to calculate the housing assistance payment for a family, including how a payment standard is determined, how a total tenant payment is determined, information on payment standards and the utility allowance schedule, and how Carroll County Housing determines the maximum allowable rent for an assisted unit, including the rent reasonableness standard.
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability rules, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.

- The PHA must inform the family of 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 advantages of living in areas that do not have a high concentration of low-income families.
- The PHA policy on providing information about families to prospective owners.

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

The documents and information provided in the briefing packet comply with all HUD requirements. The PHA also includes other information and/or materials that are not required by HUD. Briefing packets contain the following:

- A copy of the voucher briefing slide presentation, which covers all of the information HUD requires, as well as additional information specific to Carroll County Housing's HCV Program.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, information on the payment standard and utility allowance schedule, and how the PHA determines the maximum allowable rent for an assisted unit.
- Information about where the family may lease a unit.
- Portability procedures
- The HUD-required tenancy addendum, which must be included in the lease.
- The Request for Tenancy Approval (RTA) form that the landlord must complete and return to the PHA.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards, including when and how exceptions are made and how the voucher size relates to the unit size selected.
- The HUD brochure, *A Good Place to Live*, on how to select a unit that complies with Housing Quality Standards (HQS).
- The HUD pamphlet on lead-based paint entitled, *Protect Your Family from Lead in Your Home* and information about where blood level testing is available.

- Information on federal, state, and local equal opportunity laws and HUD's pamphlets, *Are You a Victim of Housing Discrimination?* and *Fair Housing Equal Opportunity For All*. Included in the pamphlets are the housing discrimination complaint form and contact information for HUD enforcement offices.
- A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources known to the PHA (e.g., online search tools, organizations, newspaper) that may assist the family in locating a unit.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The Family Obligations that are on the HUD voucher and that were acknowledged and signed at eligibility interviews.
- Information about the protections afforded by the Violence Against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, stalking, and or human trafficking.
- The grounds on which the PHA may terminate assistance for a participant family because of family actions or inactions.
- PHA informal hearing procedures, including when the PHA is required to offer a participant family the opportunity to request an informal hearing.

### **Additional Items for Briefing Packet**

- A flyer explaining how portability works, which includes a list of neighboring PHAs and their contact information.
- A Landlord's Handbook and sample contract.
- The Thrive Family Self-Sufficiency Program brochure.

### **Move Process**

An eligibility meeting will be held for participants who will be reissued a voucher to move if they have been recertified within the last 60 days and have given notice of intent to vacate to their landlord. This meeting includes outgoing portable families.

### **Security Deposit Requirements** [24 CFR 982.313]

An owner is not required to but may collect a security deposit from the tenant. Security deposits charged to families may be any amount the owner wishes to charge; however, the security deposit may not exceed the amount charged to tenants not in the HCV Program, nor can it exceed the maximum prescribed by state or local law.

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

## **FAMILY OBLIGATIONS**

Obligations of the family are described in the HCV regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing and review that these responsibilities are listed on the printout of the presentation. 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 program. Violation of any of these obligations may result in termination of housing assistance.

### **Timely Reporting of Changes Required by Family Obligations**

When the Family Obligations require the family to respond to a request or notify the PHA of a change, Carroll County Housing considers 10 working days prompt notice. All notifications of changes must be in writing. An interim change form is provided in the housing office, or handwritten notes or emails will also be accepted.

### **Family Obligations** [24 CFR 982.551]

The "musts" included in the Family Obligations on the voucher are as follows:

1. Supply any information that the PHA or HUD determines to be necessary, including required evidence of citizenship or eligible immigration status, and information needed for annual reexaminations and interim reexaminations regarding family income and family composition.
2. Promptly notify the PHA, in writing, of any changes in income, assets, and/or household composition.
3. Disclose and verify Social Security Numbers and sign and submit consent forms for obtaining information.
4. Supply any information requested by the PHA to verify that the family is living in the unit or information related to the family absence from the unit.
5. Promptly notify the PHA in writing when the family is away from the unit for an extended period of time.
6. Allow the PHA to inspect the unit at reasonable times and after reasonable notice. If a tenant fails to attend two appointments with the housing inspector, housing assistance may be terminated.

7. When it is time for an annual reexamination, all persons in the household age 18 or older must attend. If two appointments are missed, housing assistance may be terminated.
8. Notify the PHA and the owner in writing before moving out of the unit or terminating the lease.
9. Use the assisted unit for residence by the family. The unit must be the family's own residence.
10. The composition of the assisted family residing in the unit must be approved by the PHA. Promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must report any visitor who resides in the unit for more than 10 consecutive days; a visitor may not stay any longer than 30 calendar days in a one-year period.
11. Submit a written request for PHA approval to add a family member as an occupant of the unit prior to allowing them to move in. Written approval by the landlord must also be submitted to Carroll County Housing to add a family member. Carroll County Housing will determine eligibility of the new member in accordance with the policies in Chapter 3.
12. Promptly notify the PHA in writing if any family member no longer lives in the unit.
13. Promptly give the PHA a copy of any owner eviction notice.
14. Pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

The "must-nots" included in the Family Obligations are as follows:

1. Own or have any interest in the unit.
2. Commit any serious or repeated violation of the lease. Carroll County Housing will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, court-ordered eviction or an owner's notice to evict; police reports; and affidavits from the owner, neighbors or other credible parties with direct knowledge.

Serious and repeated 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 the 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)].



3. Commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
4. 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.
5. Sublease or let the unit or 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).
6. Receive HCV Program housing assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state, or local housing assistance program.
7. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises, including damages resulting from nonpayment of utilities.
8. 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 PHA 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).
9. 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.

## **SUBSIDY STANDARDS**

HUD requires PHAs establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This section describes the subsidy standards that will be used to determine the voucher size (family unit size) when families are selected from the waiting list, as well as Carroll County Housing's procedures when a family's size changes or a family selects a unit size that is different from the voucher.

### **Determining Voucher Size/Family Unit Size** [24 CFR 982.402]

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. Carroll County Housing's subsidy standards for determining voucher size will be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements. The unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented. Any change in a family's voucher size will be adjusted at the next annual reexamination, unless due to PHA error.

Generally, Carroll County Housing assigns one bedroom to two people within the following guidelines:

- Heads of household will not be required to share a bedroom with a child or other nonspousal adult.
- Separate bedrooms should be allocated for persons of the opposite sex (other than spouses or couples intending to live as such or children under six years of age).
- Foster children will be included in determining unit size only if they will be in the unit for more than six months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Consideration may also be given for medical reasons.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- Space may be provided for a child who is away at boarding school, college, or other Carroll County Housing accepted institution but who lives with the family during school recesses. The PHA reserves the right to determine acceptable absence time.
- A single pregnant woman with no other family members will be assigned a two-bedroom voucher if pregnant at the time of certification for occupancy purposes. If the pregnancy fails to go to term or does not result in a live birth, the single head of household will be given a one-bedroom voucher at the next reexamination.

<b>Voucher Size/ Number of Bedrooms</b>	<b>Persons in Household</b>	
	<b>Minimum Number</b>	<b>Maximum Number</b>
1	1	2
2	2	4
3	3	6
4	4	8
5	6	11
6	8	13

## **Exceptions to Subsidy Standards [24 CFR 982.403(a) & (b)]**

The PHA may grant exceptions to its established subsidy standards if the family requests an exception and determines the exceptions are justified by the relationship, age, sex, health, or disability of family members, or other individual circumstances.

Carroll County Housing will grant an exception upon request as a reasonable accommodation for persons with disabilities. Reasonable Accommodation Request forms are available from the Housing office. Reasons for exceptions may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- An elderly person requiring a live-in aide
- Persons with disabilities who may require a live-in aide

Requests for exceptions based on health-related reasons must be verified by a doctor or medical professional. Requests for exceptions must be made in writing and justify the need for additional bedrooms. Documentation to support the need or justification may be required.

### **PHA Error**

If the PHA errs in the bedroom size designation, the family will be issued a voucher of the appropriate size prior to going under lease. If the change in the voucher size benefits the family, the family will be issued a voucher immediately in the correct size. Otherwise, the voucher will be issued at the next annual reexamination.

### **Changes for Applicants**

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

### **Changes for Participants**

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family member before the new member occupies the unit, except for additions by birth, adoption, or court-awarded custody. Any increase in family size due to birth, adoption, or court-awarded custody must be reported in writing within 10 working days. Any decrease in the family unit size will be adjusted at the next annual reexamination.

### **Under-housed and Over-housed Families**

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

The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

- If a family with a disability is under-housed in an accessible unit.
- If a family requires the additional bedroom because of a health problem that has been verified by the PHA.

### **Transfer Waiting List**

When a change in family composition requires a larger voucher size and no funds are available, the family will be placed on a Transfer List.

Families will be selected from the Transfer List when there is available funding before families are selected from the applicant Waiting List. This assures that families who are already on the program are in the appropriately sized units.

### **Unit Size Selected** [24 CFR 982.402(c)]

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

1. **Subsidy Limitation**: The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the *lower of*:
  - The payment standard amount for the family unit size; or
  - The payment standard amount for the unit size rented by the family.
2. **Utility Allowance**: The utility allowance used to calculate the gross rent is based on voucher size issued or the unit size selected by the family, whichever is lower.
3. **Housing Quality Standards**: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

<b>Housing Quality Standards Guidelines</b>	
<b>Unit Size/Number of Bedrooms</b>	<b>Maximum Number in Household</b>
1	4
2	6
3	8
4	10
5	12
6	14

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

When a family is selected from the waiting list (or as a Special Admission), or when a participant family wants to move to another unit, the PHA issues an HCV, form HUD-52646. The voucher is the family’s authorization to search for housing. Vouchers specify the unit size for which the family qualifies, the date of voucher issuance, and the date of expiration. It contains a brief description of how the program works as well as the Family Obligations under the program.

The voucher is evidence that the PHA has determined the family to be eligible for the program, and the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA 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 PHA’s HCV Program. Vouchers are only issued after the PHA has determined that the family is eligible based on verification of information received with the 60 days prior to issuance [24 CFR 982.201(e)], and after the family has attended an oral briefing. Admission to the HCV Program occurs when the lease and contract become effective.

Carroll County Housing will ensure that the number of vouchers issued stays as close as possible to 100 percent lease-up. The PHA performs a monthly calculation to determine whether applications can be processed and the number of vouchers that can be issued.

**Term of Voucher** [24 CFR 982.303, 982.54(d) (11)]

The initial term of a voucher is 120 days and is stated on the voucher. The family must submit a Request for Tenancy Approval (RTA) and proposed lease within the 120-day period unless an extension has been granted by the PHA.

### **Extensions of Voucher Term** [24 CFR 982.303]

A PHA 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. Discretionary policies related to extension and expiration of search time are described in this Administrative Plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

A family may request an extension of the voucher time period. All requests for extensions must be received prior to the expiration date of the voucher. Extensions beyond 120 days are permissible at the discretion of the Program Manager or Bureau Chief, primarily for the following reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time, which has affected the family's ability to find a unit. Verification is required.
- The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the 120-day issuance. A completed search record is required.
- The family was prevented from finding a unit due to disability accessibility requirements or large size unit requirement. A written search record is part of the required verification.

Carroll County Housing will make a decision within 10 working days after a request for an extension has been received.

Families who require additional assistance during their search may call Carroll County Housing to request assistance. The PHA will assist families with negotiations with owners, and provide other assistance related to the family's search for housing.

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

When a Request for Tenancy Approval is received, the PHA will deduct the number of days required to process the request from the 120-day term of the voucher.

### **Expiration of Voucher Term**

If the voucher has expired and has not been extended by the PHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted and was only seeking to move, they may remain as a participant in their unit if there is an assisted lease/contract in effect. Within 10 working days after the expiration of the voucher term or any extension, Carroll County

Housing will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

**Voucher Issuance Determination for Split Households** [24 CFR 982.315]

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

- Which of the two new family units has custody of dependent children;
- Which family member was the head of household when the voucher was initially issued (listed on the initial application);
- The composition of the new family units, and which unit contains elderly or disabled members;
- Whether domestic violence was involved in the break-up;
- Which family members remain in the assisted unit; and
- Recommendations of social service professionals.

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

**Remaining Member of Tenant Family—Retention of Voucher** [24 CFR982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit. A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family. For a minor child to continue to receive assistance as a remaining family member, one of the following must occur:

- The court must award emancipate minor status to the minor; or
- Carroll County Housing must verify that Social Services or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the minor child for an indefinite period.

A reduction in family size may require a reduction in the voucher unit size, which will take effect at the next annual reexamination.

## CHAPTER 6

### INCOME AND SUBSIDY DETERMINATION

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

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. Carroll County Housing will use the methods in this Administrative Plan to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter defines the allowable expenses and deductions to be subtracted from annual income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD notices and memoranda. The formula for the calculation of TTP is specific and is not subject to interpretation.

Carroll County Housing's policies in this chapter address those areas in which the PHA has the discretion to define terms and to develop standards to ensure consistent application of the various factors that relate to the determination of TTP.

#### ANNUAL INCOME [24 CFR 5.609]

Annual income, monetary or not, that includes:

- All amounts not excluded in 24 CFR 5.609(b);
- All amounts received from all sources by the head of household or spouse and each member of the family 18 years or older
- Unearned income by or on behalf of each dependent who is under 18 years of age;
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

HUD regulations under HOTMA regarding annual income do not list sources of income that are to be included; rather a comprehensive list of income that is *excluded* is provided in 24 CFR 5.609(b). Because HUD relies on *excluded* income in the new regulations, generally all income is included unless it is listed in 24 CFR 5.609(b).

Annual income includes all amounts received, not the amount that a family may be legally entitled to but did not receive, such as child support or alimony. It also includes all actual anticipated income from assets, unless the income is otherwise excluded, even if the asset itself is excluded from net family assets as described in Notice PIH 2023-27. HUD regulations that describe policies for treating specific types of income and assets are found in 24 CFR 5.603(b)(1).



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

<b>Summary of Income Included and Excluded by Person</b>	
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 cohead Other adult family members	All sources of income, except those specifically excluded by regulations, are included
Minors	Employment income is excluded [24 CFR 5.609(c)(1). All sources of unearned income, except those excluded, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	Earned income in excess of the dependent deduction is excluded [24 CFR 5.609 (b) (14)]. All sources of unearned income, except those excluded by the regulations, are included.

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

**Temporarily Absent**

The income of family members approved to live in the unit will be counted even if they are temporarily absent. Carroll County Housing defines temporarily absent as away from the unit for less than 30 consecutive days. It is the responsibility of the head of household to report changes in family composition, including any absences. If the head of household or spouse is temporarily absent due to military service, all military pay and allowances (except hazardous duty pay as defined by HUD) are counted as income.

**Permanently Absent**

Any member of the household is considered permanently absent if he or she is away from the unit for 30 or more consecutive days. Income of persons permanently absent will not be counted. Generally, an individual who is permanently absent is no longer considered a family member. Exceptions to this general policy are discussed below. If the entire family is absent from the assisted unit for 30 consecutive days, the entire family is considered permanently absent and assistance will be terminated.

### **Absence Due to Medical Reasons**

If any family member leaves the household to enter a facility such as a hospital, nursing home, or rehabilitation center, and verification can be made that the family member will be returning in less than 180 days; the family member will not be considered permanently absent. Carroll County Housing will obtain verification from a doctor or other medical professional as to the likelihood and timing of the family member's return.

### **Absence Due to Full-time Student Status**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household, or the family declares that the student has established a separate household.

### **Absence Due to Incarceration**

If the head of household or other household member is sentenced to be incarcerated for more than 30 consecutive days or has been incarcerated for more than 30 days in a 12-month period, he or she will be considered permanently absent and will be terminated or removed from the household. Carroll County Housing will terminate assistance following the termination procedures contained in this Administrative Plan.

### **Absence of Children Due to Placement in Foster Care**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home. If the time period is to be greater than six months from the date of removal of the child/children, the voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the PHA's subsidy standards.

### **Absence of Entire Family**

Families are required both to notify the PHA before they move out of a unit, and to give the PHA information about any family absence from the unit. If the entire family is absent from the assisted unit (i.e., no family member is residing in the unit) for more than 30 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

### **Reasonable Accommodation and Absences**

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

If an absence that resulted in termination of assistance was due to a person's disability and the PHA can verify that the person was unable to notify the PHA in accordance with the family's responsibilities, and if funding is available, the PHA may reinstate the family as an

accommodation if requested by the family (as long as the period was within 180 days).

### **Caretaker for Children**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor for the first 60 days. If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the voucher may be transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, Carroll County Housing will review the status at 60-day intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status.

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

### **Visitors**

Any adult not included on the household who has been in the unit more than 10 consecutive days without PHA approval, or a total of 30 days in a 12-month period, will be considered to be living in the unit as an unauthorized household member. An overnight visit is defined as staying from one calendar day to the next. The absence of evidence of any other address will be considered verification that the visitor is a member of the household. All persons using the participant's address as their mailing address may be considered members of the household.

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

In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

### **Reporting Additional Household Members**

Reporting changes in household composition to Carroll County Housing is both a HUD and a PHA requirement. The Family Obligations require the family to request PHA approval to add an occupant of the unit and to inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request prior approval of additional household members in writing. Requests to add someone to the household can be done by completing an Interim Change Form. If any new family member is added, the income of the additional member will be included in the family income. Carroll County Housing requires written approval from the owner when there are changes in family composition other than birth, adoption, or court-awarded custody. Additions to the household will have to go through

eligibility screening. If a head of household marries while on the Housing Choice Voucher Program, the spouse must be added to the household and the spouse's income and assets will be included.

If the family does not obtain prior written approval from the PHA, any person the family has permitted to move in will be considered an unauthorized household member.

If a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the PHA in writing within 10 days of the maximum allowable time.

### **Reporting Absences**

If a family member leaves the household, the family must report this change in writing to Carroll County Housing within 10 days of the change and certify as to whether the member is temporarily absent or permanently absent. Once verification of absence is obtained, Carroll County Housing will conduct an interim evaluation for changes that might affect the Total Tenant Payment.

### **CALCULATING ANNUAL INCOME**

The method for calculating income varies depending on whether it's at initial occupancy, interim reexamination, or annual reexamination. However, income from assets is always anticipated. PHAs are 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 verifying income are found in Chapter 7.

### **Basis of Annual Income Projection**

When the PHA cannot readily anticipate income based on current circumstances (e.g., in the case of temporary, sporadic, or variable employment; seasonal employment; unstable working hours; or suspected fraud), historical data will be reviewed and analyzed for patterns of employment and receipt of other income to establish annual income.

PHAs 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)].

Carroll County Housing will use current tenant-provided documents to project annual income. Tenant-provided pay stubs must be current and consecutive, dated within the last 60 days of the interview date. The next chapter describes verification policies that will be followed.

Current data are reviewed and analyzed to anticipate annual income. A clear audit trail will be left to show how the PHA annualized projected income. When Carroll County Housing cannot anticipate income based upon current circumstances (e.g., seasonal employment, inconsistent working hours, or suspected fraud), historical data will be analyzed for patterns of employment, paid benefits, and any other income, and use the results of the analysis to establish anticipated annual income.

If current circumstances are not used to project annual income, a clear rationale for the decision will be documented. The family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

### **Known Changes in Income**

As shown below, if the PHA 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 of Hourly Rate Change:** An employer reports that a full-time employee who has been receiving \$11/hour will begin to receive \$11.50/hour in the eighth week after the effective date of the reexamination. Annual income would be calculated as follows:

$$(\$11/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$11.50 \times 40 \text{ hours} \times 45 \text{ weeks})$$

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, Carroll County Housing will calculate annual income using current circumstances and then conduct an interim reexamination when the change actually occurs. 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.

**Example of Seasonal Employment:** HUD permits PHAs to use two methods to project income for seasonal employment. If there is a 12-month history of seasonal employment, Carroll County Housing will take an average of three current pay stubs and multiply that by the number of weeks worked. Using this method, no interim reexaminations will be done for the months the seasonal employment stops. The income for a tenant who works only during the school year would be calculated as follows:

$$\text{Average of three pay stubs} \times 42 \text{ weeks} = \text{projected annual income}$$

If the seasonal employment is new without 12 months of history to analyze, current income would be annualized (e.g., \$400/week x 52 weeks), and an interim reexamination would be conducted when the income changes.

## MINIMUM INCOME

There is no minimum income requirement. Families reporting zero income are required to complete a written certification every month and submit copies of their monthly bills and provide information regarding how those bills are paid.

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

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, Carroll County Housing will calculate the income of the permanently confined family member through one of the following two methods that will result in a lower payment by the family:

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

## EARNED INCOME

### Wages and Related Compensation (24 CFR 5.609(a); Notice PIH 2023-27)

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/co-head regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609(b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (i.e., payments made or income received in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits ([24 CFR 5.100].

**Day Laborer**--is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income under 24 CFR 5.609(b)(24) and must be included, unless specifically excluded (e.g., earnings of full-time students in excess of the dependent deduction).

**Independent Contractor**—is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are subject to the self-employment tax. An individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered

independent contractors unless state law dictates otherwise. In addition, individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor. Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)(3) and (b)(14).

**Seasonal Worker**-- is defined as an individual who is: (1) hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer); and (2) the employment begins about the same time each year (e.g., summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work could be employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)(14), etc. For persons who regularly receive bonuses or commissions, Carroll County Housing will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA 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 PHA will count only the amount estimated by the employer.

### **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(b)(11)].

### **Earnings of a Minor [24 CFR 5.609(b)(3)]**

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### **Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]**

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/co-head is considered a full-time student if they are attending school or vocational training on a fulltime-time basis as determined by the educational institution with a degree or certificate program.

## **EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]**

The Earned Income Disallowance (EID) encouraged people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. - HOTMA, however, removed the statutory authority for the EID and it is only available to families that were eligible for and participating in the program as of December 31, 2023, or before. No new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of the HOTMA final rule, they are entitled to the full amount of the benefit for a full 24-month period, as described in the policies below. No family will still be receiving the EID after December 31, 2025. The EID will lapse on January 1, 2026, and the policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### **Calculation of the Disallowance**

Calculation of the EID 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 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.

**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 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 PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

**Lifetime Limitation:** EID has a 24-month lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will lapse on January 1, 2026; no family member's exclusion period continues past this date.

## **BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PIH 2023-27]**

Annual income includes the "net income from the operation of a business or profession.



*Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness 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 (IRS) 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)].

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

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)]. An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to Self-Employment Tax. Generally, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 6.603(b)].

### **Business Expansion**

HUD regulations do not permit a PHA 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, a hair salon purchasing property to open a second location would be considered a business expansion.

### **Capital Indebtedness**

HUD regulations do not permit PHAs to deduct from gross income the amortization of capital indebtedness. *Capital indebtedness* is the principal portion of the payment on a capital asset such as land, buildings, and machinery. Carroll County Housing will allow interest as a business expense, 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 PHAs to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family. Acceptable investments in a business would be cash loans and contributions of assets or equipment such as if a member of the assisted family provided a loan of \$1,000 for start-up costs. Carroll County Housing would not count as income any withdrawals from the business up to the amount until the loan has been repaid. Uncompensated labor for the business would not be counted as an investment.

### **Co-owned Businesses**

Carroll County Housing will require documentation regarding a family's share of a business if it is co-owned with someone from outside the family. If the family's share of the income is lower than its share of ownership, the reasons for the difference must be documented.

### **Assets Owned by a Business Entity [Notice PIH 2023-27]**

If a business entity such as a limited liability company or limited partnership owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-half of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-half of the value of the restaurant).

### **STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/2023 and Notice PIH 2023-27]**

Section 479B of the Higher Education Act (HEA) of 1965 requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For HCV programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving HCV assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to HCV participants. The PHA will follow the pre-HOTMA HCV student financial assistance limitation described below.
- During years in which an appropriations act does not contain this HCV student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all HCV students defaults to the methodology described for the public housing program and listed below.

### **Pre-HOTMA HCV Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]**

In 2005, Congress passed a law (for HCV 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.

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

- They are enrolled in an institution of higher education, as defined under the HEA.
- They are seeking or receiving HCV 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 PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, 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,

- *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 non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving HCV 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
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

### **HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)(i)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under Section 479B of the HEA (Title IV) must be excluded from the family's annual income, including:

- Federal Pell Grants
- Teach Grants

- Federal Work Study Programs
- Federal Perkins Loans
- Income earned in employment and training programs under Section 134 of the Workforce Innovation and Opportunity Act (WIOA)
- Bureau of Indian Affairs/Education student assistance programs
- The Higher Education Tribal Grant
- The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Actual covered costs are the actual costs of:

- Tuition, books, and supplies
- Supplies and equipment to support students with disabilities
- Room and board
- Other required fees charged by the education institution
- For a student who is not the head of household or spouse/co-head, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

To qualify, other student financial assistance must be:

- For tuition, books, supplies, room and board, or other required fees charged to the student;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA. The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity such as a corporation, general partnership, limited liability company,

- limited partnership, joint venture, business trust, public benefit corporation, or nonprofit; or
- An institution of higher education.

Student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under Section 479B of the HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance (HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27)**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV must be applied to the student's actual covered costs first, and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, Carroll County Housing will exclude the full amount of the assistance received under Title IV from the family's annual income. Carroll County Housing will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). Carroll County Housing will then subtract the total amount of the student's financial assistance from the student's actual covered costs. Any amount of financial assistance in excess of the student's actual covered costs will be included in the family's annual income.

#### **Example if student only receives assistance under Title IV:**

Actual covered costs: \$20,000

Other student financial assistance: \$25,000

Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)

Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and other sources, Carroll County will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance would be excluded from income.

**Example if student receives assistance from both Title IV and other sources:**

Actual covered costs: \$25,000

Title IV HEA assistance: \$26,000

Title IV HEA assistance covers the student's entire actual covered costs

Other student financial assistance: \$5,000

Excluded income: the entire Title IV HEA assistance of \$26,000

Included income: all other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, Carroll County Housing will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs, as shown in the examples below:

Actual covered costs: \$22,000

Title IV HEA assistance: \$15,000

The remaining amount not covered by Title IV assistance is \$7,000 ( $\$22,000 - \$15,000$ )

Other student financial assistance: \$5,000

\$7,000 in remaining actual covered costs - \$5,000 in other financial assistance

Excluded income: \$20,000 entire amount of the Title IV assistance + \$5,000 in other

Included income: \$0

Actual covered costs: \$18,000

Title IV HEA assistance: \$15,000

The remaining amount not covered by Title IV is \$3,000 ( $\$18,000 - \$15,000$ )

Other student financial assistance: \$5,000

When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000.

Included income: \$2,000 (the amount by which the financial aid exceeds actual covered costs)

## **PERIODIC PAYMENTS [Notice PIH 2023-27]**

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

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for workers' compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

Carroll County Housing will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as Unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which Carroll County Housing is processing an annual reexamination, Carroll County will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then Carroll County Housing will consider whether the amount meets the threshold to conduct an interim reexamination. If so, Carroll County Housing will conduct an interim in accordance with policies in Chapter 11. If not, the amount will be considered when processing the family's next annual reexamination.



### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals are not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

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

All regular payments of alimony or child support awarded as part of a divorce or separation agreement are counted as income. The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

To verify that payments are not being made, the PHA will review child support payments over the last six months. If payments are being made regularly, Carroll County Housing will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim reexamination, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within

the next 12 month whether this amount will be included in the calculation of annual income. If Carroll County Housing determines and can verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income. If Carroll County Housing determines that it is likely that the family will receive a similar payment and can verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, Carroll County Housing will not include child support in annual income.

### **NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include Unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits for housing;
- Payments for participation in research studies (depending on the situation); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than one hundred eighty (180) days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].

- Nonmonetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Nonrecurring, nonmonetary in-kind donations from friends and family are excluded as nonrecurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(vii)].

## **REGULAR CONTRIBUTIONS AND GIFTS**

Carroll County Housing will include as income regular monetary contributions from persons not residing with the family that are to help with household expenses such as utilities, phone, rent, car payments, etc. Standard verification procedures described in Chapter 7 will be followed and/or averaging regular contributions appearing on asset account statements, including person-to-person payment platforms such as, but not limited to, CashApp and Venmo that are used by family members.

## **WELFARE ASSISTANCE**

Welfare assistance is counted in annual income, including 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.

### **Reduction of Welfare Benefits from Sanctions [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions as detailed in 24 CFR 5.615. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

**Covered Families**—those “who receive welfare assistance or other public assistance benefits (i.e., welfare benefits) from a state or other public agency (i.e., 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 PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-

sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

### **STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities. The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income. If the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

### **CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(B)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

In addition, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on

the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

### **ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b):

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility.

- However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014, and includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or 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

- (v) U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition 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.)
- (w) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (x) 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)
- (y) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002.
- (z) 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))
- (aa) 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.
- (bb) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

#### **ASSETS** [24 CFR 5.603(b)(3); Notice PIH 2023-27]

Annual income includes all actual anticipated income from assets unless otherwise excluded by the regulations, even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Unlike previous versions of regulations, the current regulations do not list types of assets that are included in annual income, but rather items that are excluded.

Income from assets is always anticipated, irrespective of the income examination type.

The PHA 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 PHAs 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 PHA 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 PHA 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 PHA to show why the asset income determination does not represent the family's anticipated asset income.

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded.



### **Assets with Negative Equity [Notice PIH 2023-27]**

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### **Assets Disposed of for Less Than Fair Market Value [24 CFR 5.603(b) (2)]**

The PHA must count assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding certification or reexamination. The PHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcies are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are also not considered to be assets disposed of for less than fair market value.

The PHA's minimum threshold for counting assets disposed of for less than fair market value is \$5,000. If the total value of assets disposed of within a one-year period is less than \$5,000, they will not be considered an asset.

For example, if a family gave away a home with a net value of \$80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example totals \$50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

### **Assets Owned by a Business Entity [Notice PIH 2023-27]**

If a business entity such as a limited liability company or limited partnership owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant)

rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

### **Jointly Owned Assets**

For assets jointly owned by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded, or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### **Exclusions from Net Family Assets [24 CFR 5.603(b)(3)-(b)(4); Notice PIH 2023-27]**

Required exclusions from net family assets include:

- The value of necessary items of personal property (see Necessary and Non-Necessary Personal Property of Notice PIH 2023-27.)
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation.
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.

- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.47.
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust.
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household.

### **Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i); Notice PIH 2023-27]**

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have non-necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family’s home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Carroll County Housing will gather sufficient facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property. The following table gives examples:

<b>Necessary Personal Property</b>	<b>Non-necessary Personal Property</b>
<ul style="list-style-type: none"> <li>• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</li> <li>• Furniture, carpets, linens, kitchenware</li> <li>• Common appliances</li> <li>• Common electronics (e.g., radio, TV, DVD player, gaming system)</li> <li>• Clothing</li> <li>• Personal effects that are not luxury items (e.g., toys, books)</li> <li>• Wedding and engagement rings</li> <li>• Jewelry used in religious/cultural celebrations and ceremonies</li> <li>• Religious and cultural items</li> <li>• Medical equipment and supplies</li> <li>• Health care-related supplies</li> <li>• Musical instruments used by the family</li> <li>• Personal computers, phones, tablets, and related equipment</li> <li>• Professional tools of the trade of the family, e.g., professional books</li> <li>• Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</li> <li>• Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</li> </ul>	<ul style="list-style-type: none"> <li>• Recreational car/vehicle not used for day-to-day transportation for personal or business use (campers, motorhomes, travel trailers, all-terrain vehicles)</li> <li>• Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</li> <li>• Recreational boats/watercraft</li> <li>• Expensive jewelry without religious or cultural value, or which does not hold family significance</li> <li>• Collectibles (e.g., coins, stamps)</li> <li>• Equipment/machinery that is not used to generate income for a business</li> <li>• Items such as gems/precious metals, antique cars, artwork, etc.</li> </ul>

In determining the value of non-necessary personal property, Carroll County Housing will first use the family's estimate of the value. If there is reason to believe that the family's estimated value is not accurate, Carroll County Housing may obtain an appraisal. The family will not be charged any costs for an appraisal, but must cooperate with the appraiser.

### **Trusts [24 CFR 5.603 and 5.609; Notice PIH 2023-27]**

Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and
- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

### **Trusts as Net Family Assets**

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) **is** included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. The PHA will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

### **Actual Income from a Trust**

If the PHA determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

- Revocable trust considered part of net family assets: If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- Revocable or irrevocable trust not considered part of net family assets: If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
  - All distributions from the trust's principal are excluded from income.
  - Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Notice PIH 2023-27, page 51 provides additional guidance in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

PHAs must distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

HOTMA policy is a change from previous policies that considered all distributions of principal or income earned on the principal as income unless the distribution qualified as an income exclusion. HOTMA clarifies that the term "income" means "trust income" and not any distribution from the trust to the beneficiary.

### **Life Insurance [FR Notice 2/14/2023; Notice PIH 2023-27]**

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets. The cash value is the surrender value. 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 the family actually receives it.

### **Federal Tax Refunds or Refundable Tax Credits [24 CFR 5.603(b)(3)(xi); Notice PIH 2023-27]**

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which

the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need to subtract the amount of the deposit from the value of the excluded asset).

**Note:** Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

### **Passbook Rate [24 CFR 5.609 (a)(2)]**

HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation).

To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of one percent. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May and June, for publication on HUDUser not later than September 1.

### **Actual and Imputed Income from Assets [24 CFR 5.609 (a)(2)]**

#### **Actual Income**

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

#### **Imputed Income**

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets, the PHA must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA has calculated both the actual income and imputed income, the PHA must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

HUD provides examples of actual and imputed income from assets in Notice PIH 2023-27.

### **Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)**

PHAs may determine net family assets based on a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. Carroll County Housing will not accept self-certification of assets and will follow third-party verification procedures fully described in Chapter 7.

### **ADJUSTED INCOME FROM DEDUCTIONS AND EXPENSES [24 CFR 5.611]**

Adjusted income is defined as the annual income minus any HUD allowable expenses and deductions. PHAs must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's Administrative Plan.

### **Dependent Deduction [24 CFR 5.611 (a)(1)]**

Effective January 1, 2024, the dependent deduction amount is \$480. This amount will be adjusted annually by HUD and applies to the family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the adjusted dependent deduction. PHAs must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

### **Elderly/Disabled Family Deduction [24 CFR 5.611 (a)(2)]**

Effective January 1, 2024, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner. The amount of the deduction will be adjusted annually and published by HUD no later than September 1, PHAs must implement the adjusted elderly/disabled family deduction for all income examinations that are effective on January 1 or later.



## **Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction**

- **New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses [24 CFR 5.611(a)(3)]**

The HOTMA final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was three percent of the family's annual income.

- **New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction [24 CFR 5.603]**

Health and medical care expenses, as defined in 24 CFR 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502C2 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

- **Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus [24 CFR 5.611(a)(3)(ii)]**

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

**Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses [24 CFR 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)]**

As stated, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of three to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income.

In order to claim unreimbursed health and medical care expenses, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. To initiate, extend, or conclude a hardship exemption only, PHAs will process and submit a non-interim reexamination transaction.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

**Note:** A family receiving phased-in relief may request to receive general hardship relief instead; once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

**Phased-In Relief**

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after January 1, 2024. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower

thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

### **General Relief**

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the ninety (90) day hardship exemption period.

To qualify for a hardship exemption, a family must submit a request in writing to Carroll County Housing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. Carroll County Housing defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance Carroll County Housing policies.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by Carroll County Housing.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, Carroll County Housing will document the reason and will attempt to obtain third-party verification prior to the end of the 90- day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

Carroll County Housing will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If Carroll County Housing denies the hardship exemption request, the notice will also state that if the family does not agree with the determination, the family may request a hearing.

If the family qualifies for an exemption, Carroll County Housing will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances. If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90- day extensions. PHAs must develop policies requiring families to report if the circumstances that

made the family eligible for the hardship exemption are no longer applicable. Carroll County Housing will not extend a hardship exemption beyond the initial 90 days.

Carroll County Housing will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, Carroll County Housing may terminate the hardship exemption if they determine that the family no longer qualifies for the exemption.

### **Child Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses 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 (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare 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-- Childcare 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. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

### **Qualifying for the Deduction**

**Determining Who Is Enabled to Pursue an Eligible Activity**--The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed). In evaluating the family's request, Carroll County Housing will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

**Seeking Work**-- If the childcare 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 childcare expense being allowed by Carroll County Housing.

**Furthering Education**--If the childcare 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 childcare claimed.

**Being Gainfully Employed**--If the childcare 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 childcare 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 childcare, although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.063(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.

The PHA must not limit the deduction to the least expensive type of childcare. 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.

When the childcare 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 PHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

**Allowable Child Care Activities**—For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare. Childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

**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.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable travel time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the PHA will use the schedule of childcare costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the community.

Allowing deductions for childcare expenses is based on the following guidelines:

Childcare to work: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

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

Amount of Expense: The PHA will survey Child Care Subsidy providers in the community to collect data as a guideline. If the hourly rate materially exceeds the guideline, the PHA may calculate the allowance using the guideline.

### **Hardship Exemption**

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the childcare expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

For a family to qualify, they must demonstrate to Carroll County Housing that their inability to pay rent would be as a result of the loss of this deduction. Carroll County Housing defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health

and medical expenses) is more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. Carroll County Housing will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the HACP will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

Carroll County Housing will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If Carroll County Housing denies the hardship exemption request, the notice will also state that if the family does not agree with the determination, the family may request a grievance hearing.

If the family qualifies for an exemption, Carroll County Housing will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances. If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. Carroll County Housing will not extend a hardship exemption beyond the initial 90 days.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.



## **CALCULATING FAMILY SHARE AND PHA SUBSIDY [24 CFR 5.628]**

HUD regulations specify the formula for calculating 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
- 10 percent of the family's monthly gross income
- The welfare rent (in as-paid states only and does not apply to Maryland)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists. 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 5.628]**

Minimum rent refers to the Total Tenant Payment calculated by Carroll County Housing and includes the combined amount a family pays towards rent and/or utilities. The PHA's minimum rent is \$0. Carroll County Housing will assist \$0 rent families in obtaining financial assistance for which they may be eligible by providing information on social service agencies and other organizations.

### **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 PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA 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.

### **PHA Subsidy [24 CFR 982.505(b)]**

The PHA 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.

### **Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

### **Proration of 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 PHA must prorate the assistance provided to a mixed family. The PHA 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 PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

### **Applying Payment Standards** [24 CFR 982.505; 982.503(b)]

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. 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 voucher size, which is defined as the appropriate number of bedrooms for the family under the PHA'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 PHA has established an exception payment standard for a designated part of a zip code area or Fair Market Rent area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA 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 the owner lowers the rent during the term of the HAP contract for the family's unit, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

### **Changes in Payment Standard**

When the PHA 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 PHA changes its payment standard schedule, resulting in a lower payment standard amount during the term of a HAP contract, the PHA 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 [Federal Register Notice 11/16/16]. However, if the PHA chooses to reduce the payment standard for families currently under a 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 PHA may either reduce the payment standard to the current amount in effect on the PHA'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 PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA'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.

**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. Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

**Changes in Family Unit Size**—Irrespective 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.

**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 PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published Fair Market Rent.

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

A PHA-established utility allowance schedule is used in determining family share and PHA 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 PHA subsidy standards, whichever is the lower of the two. The approved utility allowance schedule is given to families along with their voucher. The utility allowance is based on the actual voucher size issued.

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

The PHA's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards. The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The PHA must classify utilities in the utility allowance schedule according to the following

general categories: heating, air conditioning, cooking, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant supplied refrigerator), range (for tenant-supplied range); and other specified services. An allowance for tenant-paid air conditioning will be provided if the unit has central air conditioning. For any utilities that the tenant is responsible to pay, those utilities must be metered individually for that unit if it is in a multi-unit building.

The PHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

Where the calculation on the form HUD-50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], the PHA will provide a utility reimbursement payment for the family each month. The payment will be made directly to the electric company on the tenant's behalf. If the tenant is responsible for heat, other than electric or natural gas, that portion of the utility allowance will be paid directly to the tenant; the remainder of the allowance will be paid to the utility company supplying the electricity.

DRAFT

## CHAPTER 7

### VERIFICATION PROCEDURES

[24 CFR 5.216(g)(1); 5.230; 5.230(c)(5)(iii) ; 5.32; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.410(b)-(c) and (g); 960.259(c); and 982.516(a)(2)]

#### INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. Carroll County Housing will not pass on the cost of verification to the family.

Verification guidance updated by HUD through HOTMA in Notice PIH 2023-27 and subsequent guidance from HUD will be followed. This chapter summarizes those requirements as well as Carroll County Housing policies.

Information regarding verifying income and assets and mandatory deductions follows. As needed, modifications will be made to verification policies, rules, and procedures to accommodate individuals with disabilities.

#### Consent Forms

Adult family members will be required to sign the HUD-9886A, Release of Information/ Privacy Act form. HUD-9866 does not release all the information necessary for the administration of the program so PHAs must also develop their own release forms to cover all other necessary information. Family members will also be required to sign specific authorization forms when information is needed to determine the family's eligibility and level of assistance that is not covered by the HUD-9886A. HUD and the PHA may collect information from current and former employers of adult family members.

HOTMA eliminated the requirement to sign HUD-9866 annually and as of January 1, 2024, all adult program participants will sign the new Form HUD-9886A once. Executed HUD-9886As remain effective until an applicant is denied assistance, a participating family is terminated, or the family provides written notification to Carroll County Housing to revoke consent. When a family voluntarily leaves Carroll County Housing's HCV Program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

Family members turning 18 years of age between annual reexaminations will be notified in writing that they are required to sign the Form HUD-9886A at the family's next annual reexamination, or interim if required.

#### Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. Carroll County

Housing will inform families that they may request an informal review (applicants) or informal hearing (participants) according to PHA procedures.

Within 10 working days of the date the family provides written notice, Carroll County Housing will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, Carroll County Housing will notify the local HUD field office. The purpose of HUD-9866A 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. Only HUD is authorized to collect information directly from the Internal Revenue Service and the Social Security Administration.

### **USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3); Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Carroll County Housing will not accept other programs' determinations of income for any new admission, annual, or interim reexamination.

### **VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of their Enterprise Income Verification (EIV) system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In general, HUD requires PHAs to use the most reliable form of verification that is available and to document the circumstances that cause the PHA to use a lesser form of

verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed. In order of priority, the hierarchy from Notice PIH 2023-27 is:

<b>Level</b>	<b>Verification Technique</b>	<b>Ranking/Order of Acceptability</b>
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	<b>Highest</b>  --PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination. --EIV may be used as the sole verification of Social Security income. --EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.	<b>Highest</b>
4	Written, third-party verification from the source, also known as tenant-provided verification or  EIV + Self-Certification  PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	<b>High</b>  --Written, third-party verification is used when tenant disputes EIV-reported employment and income information. --The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	<b>Medium</b>  Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant/tenant is unable to provide acceptable documentation.  May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	<b>Medium</b>
1	Self-Certification (not third-party verification)	<b>Low</b>  Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted.

Each of the verification methods is discussed in subsequent sections below.

### **Levels 5 and 6 Verification: Up-Front Income Verification (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Upfront Income Verification Using HUD's EIV System**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, Social Security benefits, and SSI benefits for participant families.

The Income Validation Tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data-sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### ***EIV Income and IVT Reports***

The EIV Income and IVT reports are not available for program applicants at admission. PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. PHAs are not required to use the EIV Income and IVT reports if the PHA accepts Safe Harbor verification (Carroll County Housing does not accept Safe Harbor) or during any interim reexaminations. Carroll County Housing will only use Income and IVT reports for interim reexaminations if necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

When required to use the EIV Income Report, the PHA must pull the report within 120 days of the effective date of the annual reexamination.



The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the EIV information.

### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly. PHAs who do not use Safe Harbor verification like Carroll County Housing must review this information at annual reexaminations.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

In accordance with policies in Chapter 11, Reexaminations, Carroll County Housing will process interims for families who have met the 10 percent threshold for increases in earned income *and* had an interim decrease processed since the last annual reexamination. Therefore, Carroll County Housing will review the New Hires Report quarterly after a family's interim decrease.

### ***EIV Identity Verification Report***

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on Social Security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27]. When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

Carroll County Housing will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When Carroll County Housing determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member, the PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

Carroll County Housing will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

### ***Other EIV Reports [Notice PIH 2023-27]***

The PHA is required to review the Multiple Subsidy Report at least quarterly, and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### **Upfront Income Verification Using Non-HUD Systems**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems. Carroll County Housing will inform all applicants and participants of its use of the UIV database The Work Number by Equifax.

### **Level 4 Verification: Written Third-Party Verification from the Source/Tenant-Provided Verification [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written third-party verification from the source and EIV + self-certification.

#### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV. When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

#### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written third-party verification from the source, the documents must be original or authentic and (generally) dated within 60 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

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

Carroll County Housing will generally request two to three paystubs if pay is biweekly, and four to five paystubs for weekly pay in order to average out income in cases of varying or sporadic income.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. Carroll County Housing's policy is to require the most recent six months of statements for bank and other accounts such as person-to-person payment platforms such CashApp, Venmo, and PayPal.

Carroll County Housing will generally use third-party verification from the source for all new admissions, as well as for annual and interim reexaminations.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by Carroll County Housing. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Carroll County Housing may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If Carroll County Housing determines that third-party documents provided by the family are not acceptable, the reason will be explained to the family and additional documentation may be requested. Housing may also use a lower form of verification such as a written third-party verification form.

Carroll County Housing will accept photocopies and documents received electronically. If it is confirmed via third-party verification that documents submitted by a family have been altered or changed, Carroll County Housing will proceed with terminating the family's housing assistance for fraud.

### **Level 3 Verification: Written Third-Party Verification Form [Notice PIH 2023-27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party

verification.” PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email, and the source completes the form.

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

Carroll County Housing will typically use a written third-party verification form in addition to tenant-provided verification (Level 4).

### **Level 2 Verification: Oral Third-Party Verification Form [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person. Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

Carroll County Housing will attempt written third-party verification first. If written third-party verification forms are not returned timely, Carroll County Housing may accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the HACP chooses to obtain oral third-party verification, the HACP will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

### **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family’s total tenant payment.

### **Level 1 Verification: Self-Certification (Not Third-Party Verification ) [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtain information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or

- The PHA has adopted a policy to implement streamlined annual reexaminations for fixed sources of income (See Chapter 11).

When the PHA was required to obtain third-party verification but instead relied on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language such as the following on any self-certification to ensure the certifier understands the consequences of knowingly providing false information:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

### **ITEMS TO BE VERIFIED [24 CFR 982.516]**

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

- Full-time student status including high school students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in the preceding two years.
- Childcare expense that allows an adult family member to be employed, to actively seek work, or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.
- Disability expenses for costs associated with attendant care or auxiliary apparatus for a disabled member, which allow an adult family member to be employed.
- Disability for determination of preferences, allowances, or deductions.
- U.S. citizenship/eligible immigrant status.
- Social Security Numbers for all family members.
- Preference status for the waiting list.
- Familial or Marital status when needed for head of household or spouse.
- Reduction in welfare benefits for noncompliance or fraud.

## **INCOME [24 CFR 982.516]**

### **Employment Income**

In addition to information about employment income verification under Level 4 Verification in this chapter, Carroll County Housing will address tip income as follows:

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

### **Social Security, Supplementary Security Income (SSI), Disability Income**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA will obtain a photocopy of the document for the file.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 60 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of Social Security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

- HUD's EIV
- Verification form completed by the unemployment compensation agency.
- Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.

### **Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

- PHA verification form completed by payment provider.
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

### **Pensions**

Acceptable methods of verification include, in this order:

- Third-party written verification
- Current check stub
- Current letter from source with payment amount

### **Alimony or Child Support Payments [Notice PIH 2023-27]**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

The methods Carroll County Housing 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:

- 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

### Business and Self-Employment Income

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

Carroll County Housing will require business owners and self-employed persons to provide:

- Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, Carroll County Housing will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), Carroll County Housing will provide a format for the individual to declare their income and expenses. Housing will review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

Carroll County Housing will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy at all future reexaminations. At any reexamination Carroll County Housing 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 for less than three months, Carroll County Housing will accept the family member's certified estimate of income and request an update to their income in another three months. If the family member has been self-employed for 3 to 12 months, Carroll County Housing will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **Child and Adult Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the PHA may require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check, cash, person-to-person payment platform), amount paid, and signature of person.



### **Recurring Contributions and Gifts**

Third-party verification will be attempted first for recurring contributions and gifts. Bank statements and statements from peer-to-peer payment platforms such as Cash App, Venmo, or PayPal may be used to capture regular gifts to help with household expenses. The family may be allowed to submit a notarized letter from the person contributing regularly to household expenses, or as a last resort, the family may furnish a self-certification for any regular contributions and gifts that should contain the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

### **Verification of Excluded Income [Notice PIH 2023-27]**

To reduce administrative burdens on PHAs, HUD is providing guidance and clarification on the requirements for verifying excluded income.

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA **is not** required to:

- Verify the income using third-party verification;
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058/HUD-50059.

PHAs may accept an applicant or participant's self-certification as verification of excluded income. The PHA's application and reexamination questionnaire documentation may serve as the self-certification of excluded income. PHAs have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income of a live-in aide. For a complete list of income exclusions, see 24 CFR § 5.609(b).

Carroll County Housing may, on a case-by-case basis, request third-party verification for excluded income.

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058/HUD-50059.

### **Zero Income Reviews [Notice PIH 2023-27]**

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)].

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income that does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

Carroll County Housing will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earned income, child support, etc., are not being received by families claiming to have zero annual income.

Carroll County Housing will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, Carroll County Housing will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

Carroll County Housing will only conduct interims in accordance with PHA policy in Chapter 11.

### **STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

HOTMA regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

Carroll County Housing will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, Carroll County Housing will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If Carroll County Housing is unable to obtain third-party written verification of the requested information, Housing will pursue other forms of verification following the verification hierarchy described in this chapter.

### **ASSETS AND INCOME FROM ASSETS [24 CFR 982.516]**

#### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income.

PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years. PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

Carroll County Housing does not accept family self-certification of assets and anticipated asset income and will require third-party verification.

#### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with HUD's asset limitation. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

Both at admission and reexam, Carroll County Housing will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. Carroll County Housing reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property with a net asset value of \$50,000 or more, the HACP will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, Carroll County Housing will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### **Interest Income from Mortgages or Similar Arrangements**

Acceptable methods of verification include, in this order:

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
- Amortization schedule showing interest for the 12 months following the effective date of the certification or reexamination.

### **Net Rental Income from Property Owned by Family**

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, Carroll County Housing 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.

### **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. If the family certifies that they have disposed of assets for less than fair market value, verification (preferably third party) is required that shows:

- All assets disposed of for less than fair market value
- The date assets were disposed
- The amount the family received
- The market value of the assets at the time of disposition.

Assets disposed of for less than fair market value because of foreclosure will not be counted.

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

### **Child Care Expenses**

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

### **Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13.

### **Unreimbursed Expense**

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

Carroll County Housing will require the family (and the care provider) to certify that the childcare expenses are not paid or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Carroll County Housing 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, Carroll County Housing will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, Housing will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to Housing any reports provided to the other agency.

In the event third-party verification is not available, Carroll County Housing will provide the family with a form on which the family member must record job search efforts. Housing will review this information at each subsequent reexamination for which this deduction is claimed.

**Furthering Education**—Carroll County Housing will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

**Gainful Employment**—Carroll County Housing will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. 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 family may provide the documentation.

## **Allowable Type of Childcare**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

Carroll County Housing will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

Carroll County Housing will verify that the fees paid to the childcare 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).

Carroll County will verify that the childcare 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 childcare costs can be deducted.

The actual costs the family incurs will be compared with Carroll County Housing'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, Housing will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## **Health and Medical Care Expenses**

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 this chapter.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

## **Amount of Expense**

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- When income is projected at new admission or interim, Carroll County Housing will make a best effort to determine what expenses from the past are likely to continue to occur in the future.
- Housing 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.
- When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, Carroll County Housing will redact all personally identifiable information.

If Carroll County Housing receives documentation from a verification source that contains the

individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, Carroll County Housing will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, Carroll County Housing will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will Carroll County Housing include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter.

### **Qualified Expenses**

To be eligible for the health and medical care expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for PHA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the health and medical care expenses deduction, the costs must not be reimbursed by another source.

Carroll County Housing will require the family 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**

At new admission and interim re-exam, when anticipated costs are related to ongoing payment of medical bills incurred in past years, Carroll County Housing 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.

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

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

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

For auxiliary apparatus, verification must include:

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

### **VERIFYING NONFINANCIAL FACTORS** [24 CFR 5.617(b) (2)]

#### **Verification of Legal Identity**

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

- Birth Certificate
- Naturalization papers
- Current, valid driver's license
- U.S. military discharge (DD 214)
- U.S. Passport
- Voter's registration
- Company/agency identification card
- Department of Motor Vehicles identification card
- Hospital records
- Church-issued baptismal certificate

Documents considered acceptable for the verification of legal identity for minors may be

one or more of the following:

- Birth Certificate
- Adoption papers/foster care documents
- Custody agreement
- Health and Human Services ID
- School records

### **Verification of Marital Status**

The following documentation to verify marital status is acceptable:

- Certified copy of the divorce decree, signed by a Court Officer.
- Copy of court-ordered maintenance or separation agreement.
- Marriage certificate

### **Familial Relationships**

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

- Verification of relationship:
  - Official identification showing names
  - Birth Certificates
  - Baptismal certificates
- Verification of custody or guardianship:
  - Court-ordered assignment
  - Verification from social services agency
  - School records
  - Notarized letter from other parent with the days and schedule regarding custody.

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

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

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled rent checks, driver's license, lease, or rental agreement.

- Statements from other agencies such as Social Services, or a written statement from the landlord or manager that the adult family member is no longer residing in the unit.
- If the adult family member is incarcerated, a document from the court or correctional facility stating the length of time of incarceration.

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

The PHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, school records, Department of Motor Vehicle records, criminal records, United States Postal Service verifications, and other reliable sources.

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)), or verified by appropriate diagnostician such as physician, psychiatrist or psychologist, using the HUD language as the verification format.

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

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

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The PHA will require citizens to provide documentation of citizenship.

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

- United States birth certificate
- United States passport
- Resident alien/registration card
- Social Security card

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

Non-citizens with eligible immigration status must sign a declaration of status and

verification consent form and provide their original immigration documents to be photocopied. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within 10 days that the INS conduct a manual search.

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

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

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

### **Time of Verification**

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

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

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

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

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

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

- Resident Alien Card (I-551)
- Alien Registration Receipt Card (I-151)
- Arrival-Departure Record (I-94)
- Temporary Resident Card (I-688)
- Employment Authorization Card (I-688B)

- Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

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

The PHA will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

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

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

Social Security Numbers must be provided as a condition of eligibility for all family members. Verification of Social Security Numbers will be the Social Security card issued by the Social Security Administration. If a family member cannot produce a Social Security card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to provide a written certification that the document(s) submitted in lieu of the Social Security Card is/are complete and accurate:

- A driver's license
- Identification card issued by a federal, state, or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- An identification card issued by a medical insurance company
- Earnings statements or payroll stubs
- Bank statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records

- Verification of benefits from the Social Security Administration

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

If an applicant or participant is able to disclose the Social Security number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the PHA. The applicant/participant or family member will have an additional 60 days to provide proof of the Social Security number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the PHA may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated.

HUD provided the following updated guidance regarding Social Security Numbers in Notice PIH 2023-27:

It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for individuals experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation in order to obtain a replacement Social Security card.

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD. PHAs must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If verifying an individual's SSN using this method, the PHA/MFH Owner must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the

tenant's SSN fails the SSA identity match, then the must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

**Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a medical professional and reverified each year to ensure the need still exists.

DRAFT

## **VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207]**

### **Local Preferences**

#### **Residency Preference**

Families whose head of household, spouse, or co-head live or work in the jurisdiction of Carroll County must provide one or more of the following documents:

- Rent receipts pre-printed with landlord's information
- Current lease
- Current utility bill
- Employer or agency records indicating a current local address for the applicant and/or employer.

If claiming employment to meet the preference, the employment must be paid, verifiable, and reported to all applicable agencies (i.e., IRS, TANF, etc.). If an applicant is on temporary disability from the job that is the qualification for this preference, the applicant must still be employed by the company and eligible to return upon medical reinstatement.

For families whose head of household, spouse, or co-head has been hired to work in Carroll County, third-party verification from the employer or statement on company letterhead will be required.

#### **Disability Preference**

This preference is available for families with a member who has a disability as defined in this Administrative Plan. The following verifications are accepted:

- Documentation from a doctor or other knowledgeable professional. The PHA will not inquire as to the nature of the disability except as to verify necessity for accessible unit.
- Award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income.

#### **Homeless Preference**

Families who claim to be homeless in Carroll County must provide business verification of services received from social service agencies in Carroll County, or any other business documentation that ties that person to Carroll County. Letters from friends, relatives, or other private individuals will not be acceptable as proof of residence.

#### **Involuntary Displacement**

This preference is for families who claim they are being or have been displaced due to domestic violence. The following documentation/certifications will be required:



- Written verification from police, social service agency, court, clergyperson, physician, and/or public or private facility giving shelter and/or counseling to victims. Verification must be obtained (from a landlord or other source) that the abuser still resides at the unit.
- The family must certify that the abuser will not return to the household without the advance written approval of the PHA. Before giving approval, the PHA will require verification of the following:
  - That the family members involved have been through a counseling program and the service provider believes that reconciliation is likely.
  - Statement from social worker, psychologist, or other professional familiar with the abuser that he/she has received counseling/treatment and is unlikely to continue the abuse.
  - Statement from local law enforcement agency that no complaints have been filed since the date of the preference approval.

## CHAPTER 8

### REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

[24 CFR 982.302]

#### **INTRODUCTION** [24 CFR 982.305(a)]

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

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA, or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This chapter defines the types of eligible housing, the PHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RTA).

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

The Request for Tenancy Approval (RTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Tenancy Approval in the form and manner required by the PHA.

The Request for Tenancy Approval must be signed by both the owner and voucher holder. The PHA will not permit the family to submit more than one RTA at a time.

The PHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable. The request will be approved if:

- The unit is an eligible type of housing;
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan);
- The rent is reasonable;
- The security deposit is approvable in accordance with any limitations in this plan;
- The proposed lease complies with HUD and PHA requirements (see "Lease Review" section below); and

- The owner is approvable, and there are no conflicts of interest (see "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (see the "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

### **Disapproval of RTA**

If the PHA determines that the request cannot be approved for any reason, the landlord and the family will be notified by phone and, if necessary, in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 15 calendar days to submit an approvable RTA from the date of disapproval.

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

### **ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]**

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

- All structure types can be utilized.
- Manufactured homes where the tenant leases the mobile home and the pad.
- Group homes.

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

### **LEASE REVIEW [24 CFR 982.308]**

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

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

- The names of the owner, tenant, and other household members;

- The address of the unit rented (including apartment number, if any);
- The amount of the monthly rent to owner;
- The utilities and appliances to be supplied by the owner;
- The utilities and appliances to be supplied by the family; and
- The lease dates must correspond with the contract dates.

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

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that owner may evict family when the owner determines that:

- Any household member is illegally using a drug; or
- A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises by a tenant, household member, or guest; or
- Any violent criminal activity on the premises by any other person under the tenant's control.

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

- Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (high misdemeanor in NJ); or
- Violating a condition of probation or parole imposed under Federal or State law.

### **Actions before Lease Term**

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

- The PHA has inspected the unit and has determined that the unit satisfies the HQS;
- The PHA has determined that the rent charged by the owner is reasonable;
- The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;
- The PHA has approved leasing of the unit in accordance with program requirements;
- When the gross rent exceeds the applicable payment standard for the family, the PHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

### **SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

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

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

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

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

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

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

### **RENT LIMITATIONS [24 CFR 982.507]**

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

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

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

### **DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]**

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

If the rent can be approved after negotiations with the owner, the PHA will continue processing the Request for Tenancy Approval and lease. If the revised rent involves a change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner on the approval date and time listed on the original RTA with the Housing Specialist initials that negotiated the change.

If the owner does not agree on the rent to owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

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

In accordance with HUD requirements, the PHA will furnish prospective owners with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the landlord at the family's current and prior address.

The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The PHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a

threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the PHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family. The PHA will not provide documented information regarding tenancy history.

#### **OWNER DISAPPROVAL [24 CFR 982.306]**

See chapter on "Owner Disapproval, Restriction, and Debts owed to the PHA."

#### **CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

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

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

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

The PHA makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following PHA representative(s) is/are authorized to execute a contract on behalf of the PHA: Director and Bureau Chief of Citizen Services

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an Employer Identification Number or Social Security Number. The owner must provide a home telephone number and business number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA may waive this restriction as a reasonable accommodation for a family member who is a person with a disability and the accommodation will allow access to the program which would not have been likely without the accommodation

#### **CHANGE IN OWNERSHIP**

See chapter on "Owner Disapproval, Restriction, and Debts Owed to the PHA."

## CHAPTER 9

### HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

#### TRANSITION TO NEW STANDARDS

Although this chapter describes HUD's Housing Quality Standards (HQS) and procedures related to applying HQS to assisted units in the HCV Program, HUD is in the process of transitioning away from HQS to the National Standards for the Physical Inspection of Real Estate (NSPIRE). NSPIRE will bring consistency across various housing programs across the country by consolidating and aligning inspection regulations and will focus on areas that directly impact tenants' wellbeing. Consolidating standards in this manner and transitioning away from HQS and the Uniform Physical Condition Standard (UPCS) should streamline the inspection process, enhance efficiency, and promote housing that meets industry standards.

The NSPIRE approach is a system that prioritizes health, safety, and functional defects over appearance to produce inspection results that better reflect the true physical condition of a property. The three major inspectable areas under NSPIRE are the units, the inside, and the outside. The inside component includes common areas, building systems, and anything within the building that is not in a unit. Outside includes the site, exterior components, and any building systems located outside such as an air-conditioning unit, playground, or sidewalk.

An NSPIRE inspection will have a rating system that includes four categories, each with a required designated response time:

- (1) Life-threatening (24 hours)
- (2) Severe (24 hours or 30 days)
- (3) Moderate (30 days)
- (4) Low (60 days)

A score will be calculated based on the number of deficiencies in each of the four categories found in each of the three inspectable areas. The score will be on a scale of 0 to 100 and a fail will be a score of 59 or less. If a property loses more than 30 points in the units alone, it will be an automatic fail. The scoring system is outlined in a notice published by HUD on July 7, 2023.

Carroll County Housing will transition to NSPIRE on October 1, 2024, or later if applicable software programs have not been updated for the new standards and procedures. The current HQS procedures and policies described in the following pages will be replaced in the FY25 Administrative Plan when the transition to NSPIRE is complete.



HUD requires that all units occupied by families in the HCV Program meet HUD's HQS and permits the PHA to establish additional requirements based on local regulations. The term HQS in this Administrative Plan refers to the combination of both HUD and PHA-established requirements. All units must pass an initial HQS inspection prior to the approval of a lease and at least annually.

This chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of noncompliance with HQS requirements for both families and owners.

During any of the types of inspections a PHA conducts, PHA personnel may take photographs of anything deemed relevant to the inspection process and determining HQS. This includes, but is not limited to, photos of HQS deficiencies or violations. Photos can be an effective and efficient tool to document deficiencies that have been corrected. The inspector may request the landlord submit photos to verify corrections. To protect the privacy of landlords and tenants, Carroll County Housing will ensure the photos remain secure and only accessed by necessary staff for the purposes of HQS inspections.

#### **TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]**

There are four types of inspections the PHA will perform:

- **Initial/Move-in Inspections**—Conducted upon receipt of Request for Tenancy Approval (RTA).
- **Annual Inspection**—Carroll County Housing will conduct inspections annually to confirm that the unit still meets HQS. This inspection is usually conducted in conjunction with the family's annual reexamination.
- **Special/Complaint 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 HQS.

#### **Initial Inspection [24 CFR 982.401(a), 982.305(b)(2)]**

The PHA will inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination within 15 days after the family and the owner have submitted a Request for Tenancy Approval. The 15-day period is suspended for any period during which the unit is not available for inspection [24 CFR 982.305(b)(2)].

The initial inspection will be conducted to:

- Determine if the unit and property meet HQS.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Determine rent-reasonableness.

### **Inspection Results and Reinspections**

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them, generally up to 30 days, depending on the amount and complexity of work to be done. The PHA will generally reinspect the unit within five business days of the date the owner notifies the PHA that the required corrections have been made. The owner will be allowed up to two reinspections for repair work to be completed. If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed reinspections has occurred, the family must select another 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 PHA may allow the utilities to be placed in service after the unit has met all other HQS requirements. The PHA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the PHA.

### **Appliances**

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The PHA will not execute the HAP contract until it has verified that the appliances have been installed and are working.

### **Annual Inspections [24 CFR 982.405(a)]**

Each unit under HAP contract will be inspected within 12 months of the last full HQS inspection. The family must allow the PHA to inspect the unit at reasonable times and with

reasonable notice [24 CFR 982.551(d)]. Notifications of inspections will be mailed by the PHA at least 10 days prior to the inspection date. Inspections will be conducted on business days only, generally between the hours of 8:00 am and 5:00 pm. Carroll County Housing may conduct remote video inspections during times of public health or other emergencies. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 30 days. If the family does not contact the PHA to reschedule the inspection or if the family misses two inspection appointments, the PHA will consider the family to have violated a Family Obligation and their assistance may be terminated in accordance with the termination procedures in this plan.

### **Results and Reinspections**

If the unit has HQS deficiencies and fails inspection, the owner and family will be notified in writing. Deficiencies must be corrected within 30 days by the landlord unless the deficiency is an item for which the tenant is responsible. The notice of the failed inspection will include an appointment for a reinspection in approximately 30 days. The Housing Program Manager or Housing Inspector may approve an extension beyond 30 days for major repairs. The notice also includes a warning of the potential for HAP abatement in the case of owner responsibility. Extensions will be granted in cases where the PHA 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 circumstances beyond the owner's control
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

Emergency items that endanger the family's health or safety must be corrected by the owner within 24 hours of notification.

### **Special/Complaint Inspections** [24 CFR 982.405(c)]

If at any time the family, owner, or a third party notifies the PHA that the unit does not meet HQS, the PHA will conduct an inspection. If the reported condition is life-threatening, the PHA must inspect the unit within 24 hours of notification, and the owner would be required to repair within 24 hours following confirmation and notification by the inspector that it is life-threatening. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

During a special inspection, the PHA will inspect only the deficiencies that were reported. However, if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

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

### **Quality Control Inspections** [24 CFR 982.405(b)]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that accurate and complete inspections are being conducted and that there is consistency in applying HQS. Units selected for quality control inspections will have been inspected in the preceding three months and will include:

- Each type of inspection (initial, annual, and special)
- Inspections completed by each inspector, if there are multiple inspectors
- Units from a cross-section of neighborhoods

### **GENERAL HUD REQUIREMENTS**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401 and cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and security
- Thermal environment
- Illumination and electricity
- Structure and materials
- Indoor air quality
- Water supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke detectors

Additional guidance on HUD requirements can be found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, HUD-52580 (3/01) and Checklist, 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

### **Modifications to Provide Accessibility**

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 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 [28 CFR 35.151(c) and Notice 2003-31]. The PHA will allow execution of the HAP contract if the unit meets all requirements and the modifications do not affect the livability of the unit.

### **ADDITIONAL LOCAL REQUIREMENTS**

The PHA 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 to 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.

### **Thermal Environment**

- The heating system must be capable of maintaining a temperature of 68 degrees Fahrenheit, in all interior rooms used for living, between October 1 and May 15.

### **Walls**

- In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

### **Windows**

- All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.

- Windows must be weather-stripped as needed to ensure a watertight seal.
- Window screens must be in good condition if present.

### **Doors**

- All exterior doors must be weathertight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be openable without the use of a key. Exterior access-only locking mechanisms are prohibited.

### **Floors**

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state (no plywood).
- All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

### **Sinks**

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

### **Toilets**

- All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

### **Security**

- If window security bars or security screens are present on an emergency exit window, 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.

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

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

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem that could result in shock or fire
- No heat between October 1 and May 15
- Utilities not in service
- No running water
- Obstacle that prevents tenant's entrance or exit
- Lack of functioning toilet

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

If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

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

### **Smoke Detectors**

Inoperable smoke detectors are a serious health threat and will be treated by the PHA as an emergency (24-hour) fail item. If the PHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the PHA will reinspect the unit the following day. The PHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

One smoke detector will be required on every level of a unit to include the basement and the attic if readily accessible. The detector(s) are to be installed as close to the bedroom(s) as possible. Units built from July 1, 1990 through present are required to have permanently installed interconnected electrically powered with battery backup detectors. Battery-operated only smoke detectors must have 10-year integrated batteries. Owners are responsible for providing and replacing old batteries for hardwire battery-backup units.

## **CONSEQUENCES IF OWNER IS RESPONSIBLE (NONEMERGENCY ITEMS)**

[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet HQS, and the owner did not complete the repairs in the specified time period, the housing assistance payment to the owner will be abated.

### **Abatement**

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 days, depending on the nature of the repair(s) needed. The PHA will inspect abated units within three working days of the owner's notification that the work has been completed. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection. The PHA will advise owners of their responsibility to notify the tenant of when the reinspection will take place.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The Notice of Abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

### **Reduction of Payments**

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

- The owner has a good history of HQS compliance.
- The failed items are minor in nature.
- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 30 days, except for winter months when exterior work is required. At the end of that time, at the PHA's discretion, if the work is not completed or substantially completed, the PHA will begin the abatement/termination of assistance.



## **Termination of Contract**

If the owner is responsible for repairs and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination will be rescinded by the PHA if the tenant chooses to remain in the unit. Only two HQS inspections will be conducted after the termination notice is issued.

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

Certain HQS deficiencies are considered the responsibility of the family:

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

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation, unless it is determined to be caused by the family's living habits. If such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis. The inspector will make a determination of owner or family responsibility during the inspection. The owner or tenant may appeal this determination within 15 days of the inspection.

If the family is responsible but the owner carries out the repairs, the owner can bill the family for the cost of the repairs.

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

If emergency or nonemergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family make any repair(s) or corrections within 30 days. If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by Housing Program Manager. The owner's rent will not be abated for items that are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

## CHAPTER 10

### OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

#### **RENT REASONABLENESS [24 CFR 982.507]**

No HAP contract can be approved until the PHA 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.

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

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

#### **RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

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

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable Payment Standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

#### **MAKING PAYMENTS TO OWNERS [24 CFR 982.451]**

Once the HAP contract is executed, the PHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made manually to the HAP Register for the following month. Checks are disbursed by the Carroll County Housing to the owner each month. Checks are typically mailed on the last working day of the month.

Checks that are not received by the landlord will not be replaced until a request is made after the 15<sup>th</sup> of the month and a stop payment has been put on the check.

### **Excess Payments**

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner Disapproval, Restriction, and Debts Owed to the PHA" chapter of this Administrative Plan.

### **Late Payments to Owners**

It is a local business practice in the PHA's jurisdiction for property managers and owners to charge tenants a reasonable late fee for rents not received by the due date, notwithstanding any grace period which is typically five days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the PHA must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The PHA will pay a late fee to the owner for housing assistance payments that are not mailed to the owner by the first working day of the month, if requested by the owner and if it is the landlord's practice to collect late fees from the tenants if the delay was the cause of the Housing Authority.

Proof of "Mailed to" date will be the postmark on envelope. Proof of "Received by Owner" will be five calendar days after date of mailing by PHA.

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

The PHA will not pay a late fee on units that have been under lease for less than 3 months. The PHA will not use any program funds for the payment of late fee penalties to the owner.

### **RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]**

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

The PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA must re-determine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

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

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

If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere. The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are Carroll County Housing's Inspection Zones within the PHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of unit
- Unit Type
- Maintenance
- Utilities

### **Rent Reasonableness Methodology**

The PHA uses an "appraisal" method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparable units. Each of the HUD factors is given value.

The PHA maintains a notebook which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 24 months old.

The PHA software also maintains unassisted unit information in the software which will allow the inspector to auto select similar units from surveys taken for unassisted units in the area and listed by zone.

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

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the PHA's discretion, the voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception Payment Standard has been approved by HUD. Carroll County Housing has no exception areas.

The PHA will establish a single voucher Payment Standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish Payment Standard amounts for each "unit size." The PHA may have a higher Payment Standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, if the Payment Standard is within the 90-110% of FMR range. HUD publishes the Fair Market Rents at least once annually that are typically effective October 1.

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

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

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

The authority to increase a Payment Standard is reserved solely at the discretion of the Director of Citizen Services and only when the Director determines it is appropriate and necessary. The authority to increase the Payment Standard would only be implemented for specific cases determined at the discretion of the Director.

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

The PHA will review its voucher Payment Standard amounts at least annually to determine whether more than 40% of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the PHA's jurisdiction have Payment Standard amounts that are creating rent burdens for families, the PHA will modify its Payment Standards for those particular unit sizes.

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

### **Quality of Units Selected**

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

### **PHA Decision Point**

The PHA will review the average percent of income of families on the program. If more than 25% of families are paying more than 30% of monthly adjusted income, the PHA will determine whether there is a difference by voucher size, whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the PHA in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the Payment Standard. If these are not the primary factors for families paying higher rents, the PHA will continue increasing the Payment Standard.

### **Rent to Owner Increases**

The PHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

### **Time to Locate Housing**

The PHA may consider the average time period for families to lease up under the voucher program. If more than 50% of voucher holders are unable to locate suitable housing within the term of the voucher and the PHA determines that this is due to 50% of rents in the jurisdiction being unaffordable for families even with the presence of a voucher, then the Payment Standard may be adjusted.

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

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

### **Financial Feasibility**

Before increasing the Payment Standard, the PHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the PHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

### **OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM**

(24 CFR 982.308(g))

The owner is required to notify the PHA, in writing, at least 60 days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

Rent increases will be limited to one per year, typically at the tenant's annual reexamination at which time the reasonable rent will be determined during the annual inspection.

DRAFT

## CHAPTER 11

### REEXAMINATIONS

[24 CFR 982.516]

#### INTRODUCTION

The PHA 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 PHA policies are described for annual and interim reexaminations, streamlined income determination for those on fixed incomes, and HOTMA regulatory changes that have resulted in non-interim reexamination transactions.

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.

#### **ANNUAL ACTIVITIES [24 CFR 982.516, 982.405; Notice PIH 2023-27]**

The PHA must conduct a reexamination for all families 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.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12 months, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Carroll County Housing, however, does not accept Safe Harbor income verifications. Chapter 7 contains the policies related to verifications for all reexaminations.

The two activities the PHA must conduct on an annual basis are a reexamination of income and family composition and an inspection of the rental unit. For annual inspections, see the "Housing Quality Standards and Inspections" chapter. For rent adjustments, see the "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

#### **ANNUAL REEXAMINATION [24 CFR 982.516]**

Annual reexaminations include 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.

When families move to another rental unit, an annual reexamination will be scheduled



(unless one has occurred in the last 60 days) and the anniversary date will be changed. Income limits are not used as a test for continued eligibility at reexamination.

### **Reexamination Notice to the Family**

The PHA will notify the household by mail of the date and time for their interview at least 90 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

The PHA's procedure for conducting annual reexaminations will be to schedule the date and time of appointments and mail a notification to the family.

### **Completion of Annual Reexamination**

The PHA will have all reexaminations for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

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

Carroll County Housing may conduct reexaminations by mail during times of public health or other emergencies.

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

The PHA has established appropriate reexamination procedures necessary to ensure that the income data provided by families is complete and accurate.

The PHA will require the family to complete an Application for Rental Assistance Benefits Form prior to all reexamination interviews. If the family fails to have this form completed out at the time of the reexamination interview, the Housing Specialist will cancel the interview and reschedule the appointment. This will be counted as a missed appointment.

### **Requirements to Attend**

All adult household members will be required to attend the reexamination interview. Exceptions may be granted for adult full-time students attending college. If the head of household is unable to attend the interview, the spouse or co-head may reexamine for the family under special circumstances.

### **Failure to Respond to Notification to Reexamine**

The family may call to request another appointment date when they receive their notice.

The PHA may allow two rescheduled appointment dates. If the family does not appear for the reexamination interview and has not rescheduled or made prior arrangements with the PHA, the PHA will reschedule a second appointment. If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA may start termination proceedings.

Exceptions to these policies may be made by the Housing Program Manager if the family is able to document an emergency that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

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

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

- Application for Continued Rental Assistance completed by Head of Household and signed by all adult family members. Documentation of income for all family members
- Documentation of all assets
- Documentation of any deductions/allowances
- Other: Copies of utility bills, credit card bills, rent receipt, telephone bills, cable bills, auto insurance premiums, etc.

Failure to bring required documents or submit them within 10 working days after an appointment is considered a violation of HUD's Family Obligations and may result in termination of housing assistance.

### **Verification of Information**

The PHA will follow the verification procedures and guidelines described in Chapter 7.

### **Calculating Annual Income at Annual Reexamination [24 CFR 5.609(C)(2) and Notice PIH 2023-27]**

The PHA must determine the income of the family for the previous 12 months and use this amount as the family income for annual reexaminations. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the

family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.
- **Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.
- If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:
- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - o Year-end statements
  - o Paycheck with year-to-date amounts
  - o Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income.

### **Effective Dates**

#### **Tenant Rent Increases**

If tenant rent increases, a 30-day notice is mailed to the family prior to the scheduled effective date of the annual reexamination. If less than 30 days are remaining before the scheduled effective date of the annual reexamination, the tenant rent increase will be effective on the first of the month following the 30 days' notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual reexamination.

#### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date.

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

### **STREAMLINED INCOME DETERMINATION FOR FIXED INCOME SOURCES**

Carroll County Housing will implement streamlined requirements for reexaminations for families on fixed incomes over a three-year cycle. To qualify for this reexamination schedule, household income must be from fixed sources such as:

- Social Security payments, including Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI)
- Federal, state, local, and private pension plans
- Other periodic payments such as annuities, insurance policies, retirement funds, and disability or death benefits

In the first year of the three-year cycle, Carroll County Housing will complete an annual reexamination consistent with HUD regulations and guidance and PHA policies. This includes collecting third-party verifications during the first year of the three-year cycle. In the second and third year of the three-year cycle, Carroll County Housing will require a certification from the family that their fixed income sources have not changed and that there is no additional income from other sources. When the family provides that certification in years two and three, Carroll County Housing will adjust the family's fixed income sources by the applicable Cost of Living Adjustment (COLA). COLAs are often publicly available, such as for Social Security income.

Households on a streamlined schedule will be able to request an interim reexamination at any time. If at any time during this three-year cycle the household receives a new income source, the change must be reported within 10 days of the new source. If Carroll County Housing determines the new income is not fixed, the household will return to the annual reexamination schedule.

All PHA policies and procedures related to adding new members to the household will apply to families on the streamlined three-year cycle. An interim would be processed to add the additional family member along with any income and assets. Carroll County Housing may revert the family to an annual reexamination schedule until it can be verified that the new household member's income is fixed.

If it is determined that a family qualifies for the three-year streamlined cycle, annual inspections will still be conducted by Carroll County Housing.

### **Scheduling and Conducting Streamlined Income Determinations**

Carroll County Housing will begin the three-year process 90 to 120 days in advance of the scheduled effective date. Generally, effective dates will coincide with the family's anniversary date in the voucher program. Families will be mailed a reexamination package and an in-person interview will be scheduled for the first year of the three-year cycle. All policies and procedures for annual reexaminations will apply to streamlined income determinations, i.e., timely reporting of changes, returning paperwork by the deadline, attending required in-person meetings when a full reexamination is being completed. Failure to complete the required paperwork during any point of the three-year cycle may result in termination.

If the family moves to a new unit during years two and three of the cycle, a new full reexamination will be performed. There also may be times during the three-year cycle that Carroll County Housing conducts a reexamination for administrative purposes.

### **INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify

information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

HOTMA revisions as detailed in Notice PIH 2023-27 change the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

### **Changes in Family and Household Composition**

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

All families must report all changes in family and household composition that occur between annual reexaminations within 10 working days of the change. The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

The family is also required to report, in writing, any change in student status for any household member 18 years or older.

### **New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)]. If a head of household marries while on the Housing Choice Voucher Program, the spouse must be added to the household and the spouse's income and assets will be included.

### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any household member no longer lives in the unit, based on [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

If a household member ceases to reside in the unit, the family must inform Carroll County Housing within 10 working days. 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.

### **Changes Affecting Income and Expenses**

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12 months to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. If a decrease meets Carroll County Housing policy to process an interim, it must be reported by the 25<sup>th</sup> of a month to be effective for the upcoming month. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then the PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

Carroll County Housing will conduct an interim reexamination when the family's adjusted income has decreased by 10 percent or more unless there is a decrease in income due to family size attributed to the death of a family member or when a family member with income permanently moves out of the assisted unit during the period since the family's last reexamination. Carroll County Housing will always process an interim (regardless of the percentage decrease) in the latter two circumstances.

## **Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]**

### ***Increases Less than 10 Percent***

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

### ***Increases 10 Percent or Greater***

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

When a family reports an increase in their *earned* income between annual reexaminations, Carroll County Housing will conduct an interim reexamination only if the following two circumstances apply:

- There was a previous decrease since the family's last annual reexamination *and*
- The increase in earned income is 10 percent or greater.

Carroll County Housing will process an interim reexamination for any increases in *unearned* income of 10 percent or more in adjusted income.

Carroll County Housing will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the



last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 15, Program Integrity.

### ***Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]***

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations.

For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

### ***Cumulative Increases [Notice PIH 2023-27]***

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

### ***Family Reporting***

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)]. PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

Carroll County Housing requires the family to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income in writing within 10 working days of the date the change takes effect. Within ten (10) business days of the family reporting the change, the HACP will determine whether the change will require an interim reexamination.

- If the change will not result in an interim reexamination, Carroll County Housing will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 working days of making this determination informing the family that Housing will not conduct an interim reexamination.
- If the change will result in an interim reexamination, Carroll County Housing will determine the documentation the family will be required to submit based on the type of change reported and Housing's policies in Chapter 7. Carroll County Housing will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 working days of receiving a request from Housing. This time frame may be extended for good cause with Carroll County Housing approval. Documents will be accepted by mail, email, fax, or in person. It is the responsibility of the family to ensure any faxed or mailed information is received. Carroll County Housing will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

### **Effective Dates for Interim Reexaminations [24 CFR 982.516(e) and Notice PIH 2023-27]**

#### **Changes Reported Timely [Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first month after the date of the actual change leading to the interim reexamination of family income.

#### **Changes Not Reported Timely [Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, Carroll County Housing will apply the decrease the first of the month following completion of the interim reexamination.

However, Carroll County Housing will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to Carroll County Housing management operations. Housing will decide to apply decreases retroactively on a case-by-case basis.

When Carroll County Housing applies the results of interim decreases retroactively, Housing will clearly communicate the effect of the retroactive adjustment to the family and may enter into a Repayment Agreement in accordance with policies.

Carroll County Housing will also clearly communicate the effect of the retroactive adjustment to the owner.

### **NON-INTERIM REEXAMINATION TRANSACTIONS [NOTICE PIH 2023-27]**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction.
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after Carroll County Housing is able to implement HOTMA regulations after HUD software updates).

- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction.
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult).
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule.
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule.
- Adding/updating a family or household member's Social Security number.
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

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

The Quality Housing and Work Responsibility Act of 1998, through which Public Housing reform is represented, established new requirements for the treatment of income changes resulting from welfare program requirements. However, before implementation of the new requirements, the PHA must revise operating procedures to effectuate these provisions.

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

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

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

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

### **Definition of Covered Family**

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

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

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

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

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

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the Housing Program Manager will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined; and

- A statement that the family may request an informal hearing if they do not agree with the PHA determination.

### **Verification before Denying a Request to Reduce Rent**

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

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

### **Cooperation Agreements [24 CFR 5.613]**

The PHA will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families.

The PHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

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

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

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

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

### **NOTIFICATION OF RESULTS OF REEXAMINATIONS [Notice PIH 98-6]**

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

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are required by the property owners. If the family disagrees with the rent adjustment, they may request

an informal hearing within 10 working days.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the PHA.

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

### **CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(c)]**

See the "Briefings and Voucher Issuance" chapter.

### **CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]**

If the PHA implemented the Noncitizens Rule on or after November 29, 1996, mixed families may receive prorated assistance only.

Under the Noncitizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

### **MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

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

## CHAPTER 12

### MOVES WITH CONTINUED ASSISTANCE AND PORTABILITY

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

#### INTRODUCTION

Freedom of 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 our policies governing moves within or outside of Carroll County's jurisdiction.

#### ALLOWABLE MOVES

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

- The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
- The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
- The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).
- The Violence Against Women Act of 2013 (VAWA) was updated in 2022 and provides special protection for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who request to move to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. Carroll County Housing has adopted an Emergency Transfer Plan, which is included in the appendix to this Administrative Plan, that describes required documentation and the process to request a move based on VAWA protections.

Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking.

Prior to issuance of a voucher of participation, an existing family desiring to relocate must:

- Submit to the PHA a dated letter from the current owner, stating that there are no current tenant damages, the current tenant is in good standing, and that there is no



- violation of the lease.
- Obtain a letter(s) from the current utility providers which state they are customers in good standing.

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

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 PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the initial PHA. The second is called the receiving PHA.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's Housing Assistance Payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

Portability applies to families moving out of or into the PHA's jurisdiction within the United States and its territories. Carroll County Housing's policy is that new voucher holders must first lease up for one year in our jurisdiction before requesting to port.

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

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

If there is more than one PHA in the area in which the family has selected a unit, the tenant will choose the receiving PHA.

If a receiving PHA denies portability, the tenant is entitled to an appeal. The receiving PHA has up to 14 days to submit hearing determination to the initial PHA.

### **Housing Assistance Payments (24CFR982.311 (d))**

When a family moves out of an assisted unit, the PHA may not make any Housing Assistance Payments to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of 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. Carroll County will not pay for the subsidy in the second unit until the 15<sup>th</sup> of the month.

## **PROCEDURE FOR MOVES OR PORTS [24 CFR 982.314]**

### **Issuance of Voucher**

Subject to the restriction listed above, if the family has not been recertified within the last 60 days, the PHA will issue the voucher to move after conducting the reexamination/as soon as the family requests the move or port.

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

The annual reexamination date will be changed to coincide with the new lease-up date unless it will be later than one (1) year since the last reexamination.

### **Notice Requirements**

Briefing sessions emphasize the family's responsibility to give the owner and the PHA proper written notice of any intent to move.

The family must give the owner the required number of days according to the lease and at least 30 days written notice of intent to vacate specified in the lease. The family must also give a copy to the PHA simultaneously.

### **Time of Contract Change**

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

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

## **RESTRICTIONS ON MOVES AND PORTS [24 CFR 982.314, 982.552(a)]**

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs (c) the PHA can demonstrate, in accordance with the policies, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher. The

PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list. The PHA 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.

New voucher holders cannot port until they have leased up for one year.

The PHA may deny permission to move or port if:

- The family owes the PHA, the owner, or the utility provider money.
- The family has vacated the unit prior to receiving a voucher to move (with the exception of VAWA).

The Housing Program Manager or Bureau Chief may make exceptions to these restrictions.

A family will not be permitted to exercise portability upon initial issuance of a voucher, or within the first year of tenancy, unless the PHA approves such a move for a reasonable accommodation.

The Housing Staff must contact the receiving agency to determine if the Housing Agency is willing to absorb the family and to inform the Housing Agency to expect the portability packet.

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

### **Absorption or Administration**

The PHA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by the PHA. The term of the voucher will be extended an additional 30 days past the date of any initial PHA voucher. The family must submit a request for approval of tenancy for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

The PHA will absorb all incoming portable families if there is funding available. When the PHA does not absorb the incoming voucher, it will administer the initial PHA's voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program. The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the

initial PHA Section 8 tenant-based program.

The PHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, the PHA will change to the proper size based on its own Subsidy Standards.

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

As a receiving PHA, the PHA will conduct a reexamination interview but will only verify the information provided if the documents are missing or are over 60 days old, whichever is applicable, or if there has been a change in the family's circumstances.

If the PHA conducts a reexamination of the family, it will not cause a delay in the issuance of a voucher.

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

### **Requests for Tenancy Approval**

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval, it will be processed using the PHA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within thirty (30) days of the expiration of the voucher by the receiving PHA.

If the family leases up successfully, the PHA will notify the initial PHA within 10 working days, and the billing process will commence. The PHA will notify the initial PHA if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of the voucher.

If the PHA denies assistance to the family, the PHA will notify the initial PHA within 10 working days and the family will be offered a review or hearing. The PHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the PHA's jurisdiction under continued portability.

### **Regular Program Functions**

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

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

## **Terminations**

The PHA will notify the initial PHA in writing of any termination of assistance within 10 working days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

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

## **Required Documents**

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

## **Initial Billing Deadline** [Notice PIH 2004-12]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is 60 days following the expiration date of the voucher issued to the family by the receiving PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

If the PHA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the PHA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The PHA will send the receiving PHA a written confirmation of its decision by mail.

The PHA 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 PHA.

## **Monthly Billing Payments** [24 CFR 982.355(e), Notice PIH 2004-12]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the

receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA 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 PHAs as well as for families that remain within its jurisdiction.

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

The PHA will bill 100% of the Housing Assistance Payment, 100% of special claims and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased as of the first day of the month.

The PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the PHA of changes in the administrative fee amount to be billed.

## CHAPTER 13

### TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can deny or terminate a family's assistance, and the ways informal hearings and reviews must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern a PHA's mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

- **Grounds for Termination of Assistance**—This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family's behavior.
- **Approach to Termination of Assistance**—This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA must use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.
- **Termination of Tenancy by the Owner**—This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

#### GROUNDINGS FOR TERMINATION OF ASSISTANCE

HUD requires the PHA 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 PHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

#### **Family No Longer Requires Assistance** [24 CFR 982.455]

As a family's income increases, the amount of PHA subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero, the family's assistance automatically terminates 180 days after the last housing assistance payment.

#### **PHA Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the PHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

### **Family Chooses to Terminate Assistance**

The family may request that the PHA terminate the family's assistance at any time.

The request to terminate assistance should be made in writing by the head of household, spouse, or cohead, if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements.

In the case of a Veterans Affairs Supportive Housing (VASH) participant, the notice of intent to terminate must be in writing but may be signed and submitted by the VA case manager.

### **Mandatory Termination of Assistance**

HUD requires the PHA to terminate assistance in the circumstances described below.

#### **Eviction [24 CFR 982.552(b) (2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, 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, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take alternative measures. The PHA may, on a case-by-case basis, choose not to terminate assistance.

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 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 PHA 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.

#### **Failure to Document Citizenship [24 CFR 982.552(b) (4)] and [24 CFR 5.514(c)]**

The PHA 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 PHA, 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.

**Failure to Provide Social Security Documentation [24 CFR 5.218(c)]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate Social Security Numbers of each household member and the documentation necessary to verify each Social Security Number. However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the Social Security Number disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant. Circumstances beyond a family's control include delayed processing of the Social Security Number application by the Social Security Administration, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose a Social Security Number by the deadline.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b) (1) (ii)]**

The PHA 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 2021-28]**

Should a PHA 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 PHA must immediately terminate assistance for the household member. In this situation, the PHA 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 PHA must terminate assistance for the household.

**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 PHA must 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 PHA 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.

**Mandatory Policies and Other Authorized Terminations [24 CFR 982.553(b); 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged (i.e., previous 12 months) 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.
- Any household member engaged in violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

The PHA will consider all credible evidence, including but not limited to, any record of charges, arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

**Drug-Related and Violent Criminal Activity [24 CFR 5.100]**

The following definitions are used for the PHA policies described below.

Drug means a controlled substance as defined in Section 102 of the 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.

Carroll County Housing 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 PHA will consider all credible evidence, including but not limited to, any record of charges, 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.

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c); 24 CFR 5.2005(c)]**

The PHA will terminate or deny a family's assistance if:

- The family has failed to comply with any family obligations under the program.
- Any family member has been evicted from federally assisted housing in the last five years.
- Any PHA 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 PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed any PHA for amounts the PHA 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 with the PHA.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

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

**Family Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The PHA must 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.

**PHA Policy:** If the family is absent from the unit for more than 30 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with policy.

### **Insufficient Funding [24 CFR 982.454]**

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

PHA Policy: Prior to terminating any HAP contracts, the PHA will inform the local HUD field office. The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority. If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in the following order:

1. Families in the regular HCV Program who are not elderly families, disabled families, or families with children. The order of termination will be based on a first-in (HCV admission date), first-out basis.
2. Families in the regular HCV Program who are nonelderly, nondisabled single person families. The order of termination will be based on a first-in (HCV admission date), first-out basis.
3. Families currently enrolled in the THRIVE Family Self-Sufficiency Program who have escrow account balances of zero, who are not elderly families, disabled families, or families with children. The order of termination will be based on a first-in (HCV admission date), first-out basis.
4. Families in the regular HCV Program who are elderly families, disabled families, or families with children. The order of termination will be based on a first-in (HCV admission date), first-out basis.
5. Families comprising the required number of special purpose vouchers, including HUD-Veteran's Affairs Supportive Housing (HUD-VASH), Family Unification Program (FUP), Non-Elderly Disabled (NED), Mainstream, and Homeownership vouchers will be the last to be terminated.

### **APPROACH TO TERMINATION OF ASSISTANCE**

The PHA is required by HUD regulations to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, regulations give the PHA discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion and outlines the criteria the PHA will use to make its decision about whether

or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

### **Method of Termination** [24 CFR 982.552(a) (3)]

The way in which the PHA terminates assistance depends upon individual circumstances. HUD permits the PHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- 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.

## **ALTERNATIVES TO TERMINATION OF ASSISTANCE**

### **Change in Household Composition**

As a condition of continued assistance, the PHA 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)].

**PHA Policy:** 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 as requested by Carroll County Housing of the former family member's current address.

### **Repayment of Family Debts**

**PHA Policy:** If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed.

## **CRITERIA FOR DECIDING TO TERMINATE OR DENY ASSISTANCE**

For criminal activity, HUD permits the PHA 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)].

**PHA Policy:** The PHA 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 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) (I)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

Carroll County Housing will consider the following factors when making its decision to terminate or 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 a victim of domestic violence, dating violence, 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, the PHA will require the participant to submit evidence of the household member's current participation in or successful completion of a court recognized, 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.

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 PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. Carroll County Housing 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.

### **Reasonable Accommodation** [24 CFR 982.552(c) (2) (IV)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

**PHA Policy:** If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

### **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, or stalking."

#### **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 PHA 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 PHA, 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 PHAs 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 violence [24 CFR 5.2009(a)].

**Limitations on VAWA Protections** [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of the PHA 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 PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2002(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, or stalking if the PHA 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 (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 a PHA 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)].

**PHA Policy:** In determining whether a 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 PHA 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 tenant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

### **Documentation of Abuse** [24 CFR 5.2007]

**PHA Policy:** When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the individual submit documentation affirming that claim. The written request will include instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. In lieu of the certification form, the PHA will accept 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; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the PHA's written request or must request an extension within that time frame. The PHA may, at its discretion, extend the deadline for 10 business days. If the individual provides the requested documentation within 14 business days, or any PHA-approved extension, the PHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any PHA-approved extension, the PHA will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA 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 PHA 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 PHA 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].

**PHA Policy:** In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section. The PHA will also consider the factors described in this chapter under Criteria for Deciding to Terminate Assistance. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member. If the PHA 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.

### **PHA Confidentiality Requirements**

All information provided to the PHA 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 and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

### **TERMINATION NOTICE**

HUD regulations require PHAs 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. The owner/manager will only be given notice that the tenant is being sent a letter of termination with the effective date, and that the tenant has the right to appeal.

Whenever a family's assistance will be terminated, Carroll County Housing will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 to the family with the termination notice. This HUD form is for a family member who wants to claim protection under VAWA and he/she will have to notify the PHA within 14 business days. 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 PHA policies,

or the circumstances surrounding the termination require. When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease. If a family vacates the unit without informing the PHA, 30 days' notice will not be given. In these cases, the notice to terminate will be sent at the time the PHA learns the family has vacated the unit. When a family requests to be terminated from the program they must do so in writing to the PHA. The PHA will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

If a family is being terminated based on failing to document citizenship status, the notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

If a criminal record is the basis of a family's termination, the PHA 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)].

### **HOW TERMINATION AFFECTS THE HAP CONTRACT AND LEASE**

When the family's assistance is terminated, the lease and HAP contract terminate automatically. The owner may offer the family a separate unassisted lease.

### **TERMINATION OF TENANCY BY THE OWNER**

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

**Grounds for Owner Termination of Tenancy** [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

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 protection from eviction by VAWA. A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA'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 (see definitions in 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.

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.

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.
- 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
- 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.

### **EVICTION [24 CFR 982.310(e)(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 court action. The owner must give the PHA a copy of

any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice.

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than five business days following the court-ordered eviction.

### **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, including:

- 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 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 VAWA and the conforming regulations in 24 CFR Part 5, Subpart L.

## CHAPTER 14

### OWNER DISAPPROVAL, RESTRICTION, AND DEBTS OWED TO THE PHA

[24 CFR 982.54, 982.306, 982.453, 982.552]

#### INTRODUCTION

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

This chapter also describes the PHA's policies for the recovery of monies that have been overpaid to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts.

#### DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d) (8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The PHA may disapprove the owner for the following reasons:

- HUD or another agency directly related has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.
- HUD has informed the PHA that the Federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other Federal equal opportunity requirements and such action is pending.
- HUD has informed the PHA that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other Federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA may waive this restriction as a reasonable accommodation for a family member who is a person with a disability.
  - In cases where the owner and tenant bear the same last name, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

- The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program.
- 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 not paid State or local real estate taxes, fines or assessments.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.
- The owner has a history or practice of failing to terminate tenancy of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  1. Threatens the right to peaceful enjoyment of the premises by other residents;
  2. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing; or
  3. 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.

### **OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]**

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

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

### **Change in Ownership**

A change in ownership does not require execution of a new contract and lease. The PHA may approve the assignment of the HAP contract at the old owner's request. The PHA may approve the assignment since they are a party to the contract. The PHA may deny approval of assignment of the contract for any of the reasons listed above in this chapter.

The PHA will process a change of ownership only upon receipt of a completed Change In Ownership form and accompanying documentation, including the escrow statement or



other document showing the transfer of title, recorded deed, and the employee identification number or social security number of the new owner.

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

### **OWNER DEBTS TO THE PHA [24 CFR 982.453(b)]**

It is the PHA's policy to meet the informational needs of owners and to communicate the program rules to avoid owner debts. Before a debt is assessed against an owner, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation in a clear format for review by the owner or other interested parties.

If owners owe money to the PHA, the PHA will make every effort to collect it. If the PHA determines that the owner has retained housing assistance or has claimed payments the owner is not entitled to, the PHA may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the PHA will require the owner to pay the amount in full within thirty (30) days. The PHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments
- Civil suits
- Abatements
- Reductions in HAP to owner

## CHAPTER 15

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements. This chapter covers HUD and PHA 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. Lastly, this chapter describes the PHA's policies and methods for the recovery of monies that have been overpaid for families.

#### PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

To ensure that the PHA's HCV program is administered according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The PHA 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 PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

At every regular reexamination, PHA staff will explain any changes in HUD regulations that affect program participants.

The PHA will discuss with first-time owners (or their agents) the requirements of the HCV program, including HAP contract requirements.

The PHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter, 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.

## **DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA 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 PHA 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].

In addition to the SEMAP quality control requirements, the PHA will employ a variety of methods to detect errors and program abuse.

The PHA routinely will use HUD and other non-HUD sources of up-front income verification. 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 PHA will compare family-reported income and expenditures to detect possible unreported income.

### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs 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 PHA activities and notifies the PHA of errors and potential cases of program abuse.

The PHA 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 PHA's error detection and abuse prevention efforts.

### **Individual Reporting of Possible Errors and Program Abuse**

The PHA will encourage staff, program participants, and the public to report possible program abuse.

## **INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA 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 PHA 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 PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

### **Analysis and Findings**

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, 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 PHA 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 PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## **Notice and Appeals**

The PHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

## **FAMILY DEBTS TO THE PHA [24 CFR 982.552]**

It is the PHA's policy to meet the informational needs of families, and to communicate the program rules to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by, the family or other interested parties.

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

- Requests for lump sum payments
- Civil suits
- Repayment Agreements
- Abatements

## **REPAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c) (v-vii)]**

The term Repayment Agreement refers to a formal written document signed by a tenant in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount

due at specific time periods. Before executing a Repayment Agreement with a family, the PHA will allow the family to make a down payment on the total amount owed.

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish “thresholds and policies” for Repayment Agreements with families [24 CFR 982.552(c)(1)(vii)].

Carroll County Housing has established the following thresholds for repayment of debts:

- Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.
- Amounts under \$3,000 must be repaid per Repayment Agreement determined by the PHA, based upon amount owed and family circumstances.

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including:

- The amount owed by the family to the PHA
- 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

A Repayment Agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

Carroll County Housing will generally not enter into a Repayment Agreement with a family who is already in a Repayment Agreement.

The PHA will prescribe the terms of the Repayment Agreement, including determining whether to enter into a Repayment Agreement with the family based on the circumstances surrounding the debt to the PHA.

There are some circumstances in which the PHA may not enter into a Repayment Agreement, including but not limited to, if the family already had or has a Repayment Agreement in place or if the PHA determines that the debt amount is larger than can be paid back by the family within 36 months.,

## **Late Payments**

A payment will be considered late if the payment is not received by the last working day of the month. Late payments are considered a breach of the Repayment Agreement. If the family's Repayment Agreement is in arrears, and the family has not contacted or made arrangements with the PHA to renegotiate the terms of the agreement if there is a verifiable hardship or the household income has decreased, the PHA will terminate housing assistance after three missed payments in a 12-month period.

## **DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]**

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

## **Family Error/Late Reporting**

Families who owe money to the PHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Repayment Agreement Section of this Chapter.

## **Program Fraud**

If a family owes an amount because of program fraud that equals or exceeds \$5,000, the case will be referred to the State Attorney and HUD Inspector General offices. When appropriate, Carroll County Housing will refer the case for criminal prosecution.

## **GUIDELINES FOR REPAYMENT AGREEMENTS [24 CFR 982.552(c) (v-vii)]**

A family will not be allowed to port to another jurisdiction while in a Repayment Agreement.

No move will be approved until the debt is paid in full unless the move is the result of one of the following causes and the Repayment Agreement is current:

- Family size exceeds the HQS maximum occupancy standards.
- The HAP contract is terminated due to owner noncompliance or opt-out.
- A natural disaster.
- An exception is made by the Housing Program Manager and/or Bureau Chief.

If a participant in the FSS Program needs to enter into a repayment agreement with Carroll County Housing, escrow credits will be stopped and will not be resumed until the time the repayment agreement is fully satisfied. Interest will continue to be allocated monthly during the months escrow credits are stopped because of a repayment agreement. Additionally, FSS participants cannot receive other available monies from the program while under a repayment agreement.

Payments will be accepted in the form of cash, money order, or bank check made out to Carroll County Housing and Community Development.

Repayment Agreements will be executed between the PHA and the head of household and spouse or co-head. The Repayment Agreement must be executed by the Housing Program Manager or Bureau Chief.

**DE MINIMIS ERRORS [24 CFR 5.609 (c)(4); 5.657 (f); 960.257 (f); 982.516 (f); 882.808 (i)(5); 891.105; and 891.655]**

De minimis errors occur when a PHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income).

As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

Carroll County Housing proactively takes steps by having Housing staff recuse themselves from decision-making such as rent calculation for an applicant, participant, or owner where a potential conflict of interest relationship exists. Housing staff are held to the highest standards for failing to comply with HCV requirements as a result of a conflict-of-interest relationship.

Carroll County Housing will either credit or repay a family if Housing makes an error due to misapplication or miscalculation that results in overcharged tenant rent.



## CHAPTER 16

### COMPLAINTS AND APPEALS

#### INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

#### COMPLAINTS TO THE PHA

The PHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The PHA does not require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone. The PHA hearing procedures will be provided to families in the briefing packet.

#### Categories of Complaints:

- Complaints from families—If a family disagrees with an action or inaction of the PHA or owner, their complaint(s) will be referred to the Housing Program Manager. If a complaint is not resolved, it will be referred to Bureau Chief.
- Complaints from owners—If an owner disagrees with an action or inaction of the PHA or a family, his or her complaint(s) will be referred to Housing Program Manager.
- Complaints from staff—If a staff person reports an owner or family either violating or not complying with program rules, the complaint(s) will be referred to the Housing Program Manager.
- Complaints from the general public—Complaints or referrals from persons in the community in regard to the PHA, a family, or an owner will be referred to the Housing Program Manager. If a complaint is not resolved, it will be referred to the Bureau Chief.

#### PREFERENCE DENIALS

The requirement to provide federal preferences has been removed from the CFR, but if the PHA denies a preference to an applicant, and the applicant disagrees with the decision, the PHA may want to offer the applicant an informal meeting. This is different from an informal review or hearing. The person who made the decision to deny the preference, or any other PHA representative, may conduct the meeting. The meeting is limited only to the circumstances pertaining to the preference denial.

When the PHA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with PHA staff to discuss the reasons for the denial and to dispute the PHA's decision.

The person who conducts the meeting will be any officer or employee of the PHA including the person who made the decision.

**INFORMAL REVIEW PROCEDURES FOR APPLICANTS [24 CFR 982.54(d) (12), 982.554]**

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) they are ineligible;
- The procedure for requesting a review if the applicant does not agree with the decision; and
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the applicant with the criminal record upon which the decision to deny was based. The PHA must provide applicants with the opportunity for an informal review of decisions denying:

- Issuance of a voucher
- Participation in the program
- Assistance under portability procedures

Informal reviews are not required for established policies and procedures and PHA determinations such as:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- Refusal to extend or suspend a voucher
- A PHA's determination not to grant approval of the tenancy
- Determination that unit is not in compliance with HQS
- Determination that unit is not in accordance with HQS due to family size or composition

## **Procedure for Review**

A request for an informal review must be received in writing by the close of the business day, no later than ten (10) working days from the date of the PHA's notification of denial of assistance. The informal review will be scheduled within ten (10) working days from the date the request is received and the applicant/tenant will be given (10) working days' notice of the appointment date and time.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by:

- A staff person who is at the Housing Program Manager level or above; or
- A Hearing Officer from outside the PHA.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

The evidence is requested in advance of the hearing, no later than 2 days prior to the review. A notice of the review findings will be provided in writing to the applicant within ten working days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

## **INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]**

When the PHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The PHA will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the PHA;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for the PHA's decision;
- The procedures for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing.

When terminating assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant/participant with the case number and date of the criminal record upon which the decision to terminate was based.

The PHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following PHA determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment
- Appropriate utility allowance used from schedule
- Family unit size determination under PHA subsidy standards
- Determination to terminate assistance for any reason
- Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account

The PHA must always provide the opportunity for an informal hearing before termination of assistance. If no request is received by the deadline, no appeal hearing will be scheduled, and the assistance will terminate.

Informal hearings are not required for established policies and procedures and PHA determinations such as:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA schedule of utility allowances for families in the program;
- A PHA determination not to approve an extension or suspension of a voucher term;
- A PHA determination not to approve a unit or lease;
- A PHA determination that an assisted unit is not in compliance with HQS (PHA must provide hearing for family breach of HQS because that is a family obligation determination);
- A PHA determination that the unit is not in accordance with HQS because of the family size; or
- A PHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

### **Notification of Hearing**

It is the PHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the PHA receives a request for an informal hearing, a hearing shall be scheduled within 10 working days. The notification of hearing will contain:

- The date and time of the hearing;
- The location where the hearing will be held;
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
- If legal representation is obtained, legal counsel must notify Carroll County Housing prior to the hearing date;
- The right to view any documents or evidence in the possession of the PHA upon which the PHA based the proposed action and to obtain a copy of such documents, which may be at the family's expense if said documents exceed 100 pages in total; and
- A notice to the family that the PHA will request a copy of any documents or evidence the family will use at the hearing.
- If the family requests a postponement for good cause, the request must be made in writing at least 24 hours before the scheduled hearing. A new hearing date will be provided within 10 working days. No additional extensions will be granted.

### **The PHA's Hearing Procedures**

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family and they provide documentation of such a good cause. If the family does not appear within 15 minutes of the scheduled hearing time and has not called Carroll County Housing, the right to a hearing is considered waived and the termination will stand.

Families have the right to:

- Present written or oral objections to the PHA's determination;
- Examine the documents in the file that are the basis for the PHA's action, and all documents submitted to the Hearing Officer;
- Copy any relevant documents at their expense if said documents exceed 100 pages in total;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that PHA staff be available or present at the hearing to answer questions pertinent to the case; and
- Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, the PHA will make the copies for the family at the family's expense. There will be no charge for the first 100 copied pages; all subsequent pages will be copied at a cost of \$0.10 per page. In no case will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this Chapter, the PHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have its attorney present; and
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. The PHA appoints hearing officers who:

- Are PHA management;
- An assigned hearing officer from County employees; or
- Are managers from other PHAs.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" include records and regulations.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the PHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the PHA and the family within ten working days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and

- The date the decision goes into effect.;

The PHA is not bound by hearing decisions:

- Which concern matters in which the PHA is not required to provide an opportunity for a hearing;
- Which conflict with or contradict HUD regulations or requirements;
- Which conflict with or contradict Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing.

The PHA shall send a letter to the participant if it determines the PHA is not bound by the Hearing Officer's determination within ten working days. The letter shall include the PHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file. These hearings may be recorded, and a copy of the recording will be maintained in the tenant file. If the tenant/applicant requests a copy of the recording, it must be requested in writing and will be supplied within 7 days at the family's expense. There will be no charge for the first 100 copied pages; all subsequent pages will be copied at a cost of \$0.10 per page.

#### **HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]**

In accordance with the Quality Housing and Work Responsibility Act of 1998, PHAs may no longer elect not to comply with ("opt-out" of) the noncitizen requirements (Part 5, Subpart E).

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.

#### **INS Determination of Ineligibility**

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in

this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members, the PHA will:

- Deny the applicant family;
- Defer termination if the family is a participant and qualifies for deferral; or
- Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

Regarding all other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

#### **MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]**

When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Examples of mitigating circumstances are: (a) A person with a cognitive disorder may not have understood the requirement to report increases in income; (b) A person may not understand the need to make regular repayments on a promissory note; (c) Minor criminal records for public drunkenness may be due to medication; or (d) Prior incarcerations for being disorderly may be emotional disorder.



## **CHAPTER 17**

### **SPECIAL HOUSING TYPES**

[24 CFR 982.601]

#### **INTRODUCTION**

PHAs may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA 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.

#### **Verification of Need for Reasonable Accommodation**

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by the Housing Program Manager and a written response stating approval or disapproval will be sent to the applicant/participant within fourteen (14) days of receipt of the request.

A copy of the PHA's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

#### **SINGLE ROOM OCCUPANCY [24 CFR 982.602]**

Carroll County Housing will assist with Single Room Occupancy as a reasonable accommodation for a person with a disability following HUD Housing Quality Standards in 24 CFR 982.401.

#### **CONGREGATE HOUSING [24 CFR 982.606]**

An elderly person or a person with disabilities may reside in a congregate housing unit.

The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **Congregate Housing Lease and HAP Contract** [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one-bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

### **Housing Quality Standards**

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

### **GROUP HOMES** [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the PHA, a live-in aide may reside with a person with disabilities.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

### **Group Home Lease and HAP Contract** [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home, the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

### **Group Home Rent and HAP Contract** [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent, the PHA will consider whether sanitary facilities and facilities for food preparation and service are common facilities or private.

### **Maximum Subsidy**

Unless there is a live-in aide, the family unit size is one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

### **Utility Allowance**

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

### **Housing Quality Standards**

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

### **MANUFACTURED HOMES** [24 CFR 982.620]

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will not provide assistance for a family that owns the manufactured home and leases only the space.

The PHA may approve a live-in aide to reside with a family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

### **Housing Quality Standards** [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

- A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage.

- A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

DRAFT

## **Addendum A**

# **THRIVE**

---

## **A Family Self-Sufficiency Program**

# **Action Plan**

Revised July 2022

Carroll County Housing and Community Development's Policies  
and Procedures for Implementing HUD's Housing Choice  
Voucher Family Self-Sufficiency Program

# **ACTION PLAN**

## Revised July 2022

### **PROGRAM PURPOSE AND OVERVIEW**

Thrive, Carroll County Housing and Community Development's Family Self-Sufficiency (FSS) Program, operates under the Code of Federal Regulations (CFR) of the Housing and Urban Development (HUD) found in 24 CFR 984.201. The purpose of the FSS Program is to empower participants in HUD's Housing Choice Voucher (HCV) Program and improve their quality of life by providing tools and referrals to existing community services. The FSS Program coordinates housing assistance with public and private resources that will help families reach their goals and surmount any barriers to economic self-sufficiency. Carroll County Housing rebranded their FSS Program to Thrive in 2018.

The overall objective of the program is to reduce the dependency of low-income families on public assistance, housing assistance, and other government programs. The FSS Program achieves this objective by providing case management to match voucher families with existing services in the community. Pilot programs conducted by HUD revealed that the most common essential services needed by low-income families to enable them to progress toward economic self-sufficiency are:

- Childcare
- Transportation
- Medical care
- Long-term education and training

The FSS Program forges strategic community partnerships with human service agencies and programs that provide service delivery systems to help FSS families find these essential services and develop the skills needed to enable them to obtain and maintain suitable employment.

### **PROGRAM COORDINATING COMMITTEE**

The Program Coordinating Committee (PCC) provides advisory oversight and is the main resource to assist in securing commitments of public and private resources to meet the needs of FSS families and help them overcome obstacles to economic self-sufficiency. Members of the PCC provide input to Carroll County Housing in developing the policies and procedures of the program as detailed in this Action Plan. The Action Plan was previously approved by HUD in December 2018 and has been revised to incorporate changes in the FY22 FSS Final Rule, effective June 16, 2022, with full implementation required by November 14, 2022. Membership of the PCC must include one or more FSS Program Coordinators and a participant of the HCV Program.

Additional representatives from the following agencies or service providers are typically included on the PCC:

- Department of Social Services (DSS)
- Housing Stability Coordinator with Carroll County Housing
- Health Department
- The local community college
- Workforce development programs
- Mental health providers
- Employment consultants
- Regional United Way
- Community Action Agency
- Faith-based organizations
- Financial empowerment organizations
- Real estate industry

The FSS Program Coordinator will develop, support, and manage the PCC through biannual meetings and ongoing communication with committee members. The PCC historically met quarterly to develop program policies and jointly decided that biannual meetings were sufficient for coordination and updates. Coordination with these local public and private sector service providers will help eliminate duplication of services.

## **DEMOGRAPHICS**

There are 767 HCVs in Carroll County, with the following demographics as of July 2022:

Female head of household:	575
Head of household who is disabled:	460
Households with at least one child:	487
Head of household is over 62:	280
Head of household is white:	664
Head of household is African American/black:	87
Head of household is Hispanic:	33

Historically, the number of households that are classified as elderly and/or disabled averages 90 to 93 percent. Out of the 767 households, 64.5 percent are in the extremely low-income category and 20.6% are very low income.

FSS Program participant demographics are reported via HUD's 50058s that are submitted to HUD's Public and Indian Housing Information Center system.

## **PROGRAM SIZE**

Carroll County Housing's original mandatory FSS Program size was 61. Successful completions of the program brought the mandatory number down to zero. Carroll County Housing now operates its voluntary Thrive (FSS) Program with a capacity to reasonably serve 50.

To date, Carroll County Housing has not needed a wait list for the FSS Program. If participant numbers exceed 50, Carroll County Housing will maintain a wait list to ensure that adequate case management can be provided.

## **OUTREACH EFFORTS**

Families coming off the HCV Program wait list typically hear about Thrive through a brochure distributed with documents required for their eligibility meeting. Carroll County Housing's office waiting room is a clearinghouse for information about community resources, including the Thrive Program. When they attend an eligibility meeting, they can submit a response form indicating interest in Thrive. At voucher briefing meetings, the FSS Program Coordinator gives a brief overview of the program. A program brochure and interest form are included in voucher briefing packets. Interested tenants are encouraged to meet with the Program Coordinator for an orientation even before they lease up. Once they lease up, they are eligible to sign a Contract of Participation.

When voucher holders are scheduled to come in for their annual reexamination, an FSS flyer is mailed to them along with required paperwork. Housing Specialists discuss the FSS Program with tenants at their annual meetings. If available, the FSS Program Coordinator will meet with interested tenants at that time to explain the program, answer questions, and encourage participation. If a household experiences a reduction in earned income and an interim is processed, Housing Specialists will again encourage them to consider the Thrive Program.

In addition to community partners on the PCC, the FSS Program Coordinator ensures other local agencies are aware of this voluntary program for families in the HCV Program. Program brochures are distributed to these service providers who in turn encourage families they work with who are on the HCV Program to consider the FSS Program.

The following incentives are explained to families to encourage participation in Thrive:

- Advocacy by the FSS Program Coordinator
- The possibility of an escrow account
- Having an FSS contact at community partner agencies
- In addition to an escrow account, the possibility of financial help from forfeited escrows to help with barriers to self-sufficiency (e.g., costs of vocational programs, test fees, uniforms, background check fees, etc.)
- Carroll County Housing is exploring an additional incentive with a community partner to offer free or reduced costs for routine vehicle maintenance for FSS families.



**Family Unification Program (FUP) Youth**—FUP youth who have been referred by DSS and who meet the following qualifications for a FUP youth voucher are referred to the FSS Program. FUP youth are:

- At least 18 and not more than 24 years old
- Left foster care at age 16 or older
- Lack adequate housing

Carroll County Housing is working with DSS FUP staff to identify and reach out to encourage participation in the FSS Program. FUP youth are not required to participate in Thrive but will have a statutory time limit of 36 months on the HCV Program if they do not participate in the FSS Program. If FUP youth choose to participate, their voucher could be held for the duration of their FSS contract.

## **SELECTION OF PARTICIPANTS**

- All adult HCV tenants who have not previously participated in FSS are eligible for participation in the program regardless of age or disability status. Any adult in a household is eligible to sign a Contract of Participation and become the head of the FSS family even if they are not the voucher holder. If an adult other than the voucher holder is signing the Contract of Participation, all adults in the household will need to sign the "Acknowledgement of Family Self-Sufficiency Head," indicating that the head of the FSS family is the one who would be awarded any escrow at graduation.
- Previous FSS participants who did not successfully graduate or who voluntarily withdrew will be considered on a case-by-case basis. They can request to come back on the program two months after their contract end date or withdrawal. A reenrollment decision is made jointly by the FSS Program Coordinator, the Housing Program Manager, and Carroll County Housing's Bureau Chief.
- Previous graduates of the FSS Program who received an escrow less than \$5,000 at graduation would be eligible to reenroll six months after graduation.
- HCV waiting list applicants are not eligible for participation.
- Families who have been terminated from FSS for noncompliance will not be permitted to participate in the program for a minimum of six months from the termination. Allowing a family to come back on the program will be determined on a case-by-case basis. A reenrollment decision is made jointly by the FSS Program Coordinator, the Housing Program Manager, and Carroll County Housing's Bureau Chief.
- Families in a current repayment agreement with Carroll County Housing will not be eligible until the repayment is paid in full.
- A family who is facing termination of assistance for any reason will not be considered unless the termination is appealed and overturned.
- If Carroll County Housing has a wait list for FSS, families will be chosen off the wait list when there is an opening based on the date and time they submitted an Initial Assessment for the FSS Program.

Carroll County Housing does not screen for motivation by requiring any activities beyond completing an Initial Assessment and working with the FSS Program Coordinator to develop goals and execute a Contract of Participation.

**Program Accessibility**—In accordance with The Americans with Disabilities Act and Section 504 of the Rehabilitation Act, Carroll County Housing will provide any auxiliary aids and services that are required by members of the public, Mainstream Voucher families, Non-elderly Disabled families, FUP youth applicants, or FUP participants. Carroll County Housing will partner with the Carroll County Bureau of Aging and Disabilities in meeting the needs for auxiliary aids and services, including interpreters, large print, and other alternate formats for materials. A notice explaining reasonable accommodations will be provided, as well as a Reasonable Accommodation Request form. All reasonable adjustments and modifications will be provided, and meetings will be held in a physically accessible location.

**Assurance of Noninterference**—A family's decision not to participate in the FSS Program will not affect the family's eligibility and participation in the HCV Program.

**Equal Opportunity**—All applicants will be treated the same without regard to race, color, religion, sex, disability, familial status, sexual orientation, or national origin.

**Prohibited Selection Procedures**—The following screening factors are prohibited:

- Family's educational level
- Educational or standardized motivational test results
- Previous job history or job performance
- Credit rating
- Marital status
- Number of children
- Any other factors that may result in discriminatory practices or treatment toward individuals with disabilities or minority or nonminority groups [29 CFR 984.203 (C)(3)]

**Wait List**—The following procedures will be followed if a wait list has been established for FSS participation:

- Interested adults will be given an Initial Assessment form to complete.
- Contact will be maintained by including wait list families who have submitted Initial Assessments in Thrive newsletter mailings.
- Placement on the wait list will be chronological based on the date and time the Initial Assessment was received.
- When an FSS slot becomes available, a family will be given the opportunity to attend a meeting with the FSS Program Coordinator based on the date and time the written Initial Assessment was received.

**Appeals**—HCV participants who have been turned down for participation in the FSS Program may appeal the denial by submitting a written request to Carroll County Housing for an Informal Hearing within 10 business days of the denial of participation.

## **SUPPORTIVE SERVICES AND AGENCY COORDINATION**

The FSS Program Coordinator will help FSS families to identify and remove obstacles to achieving a higher level of financial independence through referrals to community agencies. PCC members and the Program Coordinator's outreach efforts help avoid the duplication of services while providing a wide variety of options and have led to the following most common referrals:

- Access Carroll—medical, dental, and behavioral health
- Carroll Child Care Center—sliding scale childcare
- Carroll Community College
  - ▶ AA degree programs
  - ▶ Vocational training
  - ▶ Entrepreneurship resources
  - ▶ Personal enrichment
- Carroll County Department of Social Services
  - ▶ Food stamps
  - ▶ Cash assistance
  - ▶ Child support
  - ▶ Welfare Avoidance Grant
- Carroll County Health Department
  - ▶ Health screenings
  - ▶ Children's dental clinic
  - ▶ Lions Club vision program
  - ▶ Smoking cessation
  - ▶ Behavioral health
  - ▶ Recovery Support Services
- Carroll County Workforce Development
  - ▶ Career and employment assessments
  - ▶ Job fairs
  - ▶ One-on-one career counseling
  - ▶ Workshops and seminars
- Carroll County Youth Service Bureau
  - ▶ Outpatient behavioral health services
  - ▶ Substance abuse assessment and treatment
  - ▶ Family Preservation
- CASH Campaign of Maryland
  - ▶ Financial education

- ▶ Financial coaching/planning
- ▶ Free tax preparation
- Frederick Community Action Agency's Homeowner Counseling and Educational Services
- Head Start and Early Head Start by Catholic Charities
  - ▶ Activities for families with young children
  - ▶ GED assistance
  - ▶ Adult classes in child development, health, and nutrition
  - ▶ In-home services for prenatal families
- Human Services Programs of Carroll County
  - ▶ Family support program
  - ▶ Financial education, budget coaching, and free tax preparation
  - ▶ Community garden
  - ▶ Hands-on vocational training focusing on those reentering the workforce
- Legal Aid of Maryland
- St. Vincent DePaul Society—emergency financial assistance, prescription assistance
- The Shepherd's Staff
  - ▶ Emergency assistance
  - ▶ Clothing and work uniforms
  - ▶ Food and household goods
- Together We Own It
  - ▶ Group mentoring programs for youth
  - ▶ Family navigators for families with complex needs
- United Way of Central Maryland
  - ▶ 211 Help line
  - ▶ Mental health support
  - ▶ Eviction prevention
- University of Maryland Extension Office—family and consumer sciences education

## **CONTRACT OF PARTICIPATION**

A Contract of Participation can be signed by any adult in the household. If it is signed by an adult other than the voucher holder, all the adults in the household will need to sign an "Acknowledgement of Family Self-Sufficiency Head," indicating understanding that an adult other than the voucher holder will be the head of the FSS family and receive any escrow at graduation.

## **Contract Term and Extensions**

The initial contract term begins on the first of the month following the date of execution. The end date will be five years after the first reexamination following the start date, either an annual reexamination or interim processed due to income change. When a contract end date is determined, the participant and a Housing representative will sign an acknowledgement of the date. Contracts may be extended for up to two years for the following reasons:

- Circumstances beyond the control of the FSS family that impede the family's ability to complete contract obligations, such as involuntary loss of employment or serious illness.
- Active pursuit of a current or additional goal that will result in furtherance of self-sufficiency during the period of extension (e.g., completion of degree, credit repair, etc.)
- Any other circumstance that Carroll County Housing determines warrants an extension.

Requests for an extension must be submitted in writing by the head of the FSS family and will be granted at the discretion of the FSS Program Coordinator, Housing Program Manager, and Carroll County Housing Bureau Chief. Families denied a contract extension may appeal the denial by submitting a written request for an Informal Hearing within 10 business days of the denial.

## **INDIVIDUAL TRAINING AND SERVICES PLAN**

The head of the FSS family must have an ITSP that becomes part of the Contract of Participation. The goals in the ITSP are created together during an Initial Assessment between the FSS Program Coordinator and the head of the FSS family and/or any adult in the household. Any adult in the household may request an ITSP and referrals to supportive services. However, adults other than the head of household with ITSPs do not have to be employed in order for the contract to be considered successfully completed. Carroll County Housing does not impose any mandatory goals; goals are person-centered and based on an individual's needs and what they want to achieve.

- In accordance with HUD regulations, all ITSPs will include final goals of being suitably employed and being free from welfare assistance at the time of graduation.
- Goals should be related to removing obstacles to attaining a higher level of financial independence.
- ITSP goals may be revised when requested. An updated ITSP will be signed by the participant and a Housing representative.
- All ITSPs for the head of the FSS family will include the final goal of being suitably employed. Suitable employment will be determined on a case-by-case basis and considers the local job market; skills, education, and training of the head of the FSS family; and other factors such as family needs and if the head of the FSS family is a person with disabilities or over the age of 62.

- It is primarily the participant’s responsibility to provide authentic documentation regarding goal completion such as unofficial transcripts/copies of student accounts, credit reports, or certificates from housing counseling or other financial education. The FSS Program Coordinator can also verify with representatives from partnering agencies certain goals such as individual financial counseling with the local Community Action Agency. Occasionally, depending upon the goal, case notes can be used to document that a goal was satisfied.

## **THE FSS ESCROW ACCOUNT**

Carroll County Housing will establish an escrow account for FSS participants whose rent portion increases due to an increase in their earned income after the Contract of Participation is executed. Escrow credits will be deposited into an interest-bearing FSS account in accordance with HUD regulations.

### **Calculation of Escrow**

- Escrow credits will be calculated monthly and in accordance with HUD regulations. Monthly deposits may fluctuate if earned income fluctuates over the course of the contract term.
- Interest will be allocated monthly.
- If a participant needs to enter into a repayment agreement with Carroll County Housing, escrow credits will be stopped and will not be resumed until the time the repayment agreement is fully satisfied. Interest will continue to be allocated monthly during the months escrow credits are stopped because of a repayment agreement.
- No escrow credit will be given if the family is in the process of moving to a new unit and is not under a lease.

**Escrow Reports to Families**—Escrow account statements will be sent to each FSS family at least once annually. This is typically done in December. The report will include the balance at the beginning of the reporting period or establishment of the account, monthly deposits, monthly interest credited, any interim disbursements made during the reporting period, and the total balance in the account at the end of the reporting period.

**Interim Disbursements**—Interim disbursements may be allowed under the following circumstances:

- The head of the FSS family must submit a written request to Carroll County Housing for an interim disbursement to be considered and list any alternative resource options that were explored and exhausted. Documentation should be submitted to substantiate the request.
- Interim disbursements should be related to a goal, e.g., funds are needed for a car repair to enable the participant to work or go to school.
- Interim disbursements will only be considered if the head of the FSS family has demonstrated that they are actively working on goals.

- Interim disbursements do not need to be repaid if the family fails to successfully complete the program and receive escrow funds.
- As much as possible, funds will be disbursed directly to a third party, e.g., a car dealer if the participant is purchasing a car to enable work or schooling.
- Interim disbursement requests will be considered on a case-by-case basis and will be reviewed by the Bureau Chief, Program Manager, and FSS Program Coordinator.
- Families denied an interim disbursement may appeal the decision by submitting a written request for an Informal Hearing within 10 business days.

## **ENDING PARTICIPATION AND CONTRACT TERMINATION**

**Voluntary Withdrawal**—FSS participants may withdraw from the program at any time by notifying the FSS Program Coordinator in writing.

- They may be reconsidered for participation no sooner than two months following the request to withdraw.
- Participants who voluntarily withdraw from the HCV Program or end their participation in the FSS Program before the Contract of Participation has elapsed will automatically forfeit all escrowed funds.

**Termination of the Contract of Participation**— The FSS Contract is automatically terminated if a participant is terminated from the HCV Program. If the head of household does not comply with the FSS Contract of Participation, supportive services may be withheld. Contracts of Participation may be terminated for the following reasons:

- Participant has exhibited lack of follow through with the mutually agreed upon goals in the ITSP as well as other terms of the contract.
- Participant is involved in acts inconsistent with the purpose of the FSS Program, including, but not limited to:
  - ▶ Voluntarily terminating employment
  - ▶ Reducing hours without reason
  - ▶ Committing criminal acts

**FUP Youth and Terminations**—If a FUP youth participant fails to comply with the terms and conditions of the FSS contract without good cause and is terminated from the FSS Program, the FUP youth is no longer considered a participant. With the FSS termination, the FUP youth is subject to the statutory time limit of 36 months in the HCV Program beginning from the time the first Housing Assistance Payment contract is signed. As with all FSS families, FUP youth may appeal Carroll County Housing’s decision to terminate by submitting a written request for an Informal Hearing within 10 days.

## **FORFEITED ESCROWS**

Forfeited escrows will go into a separate account that is to be used for the benefit of current FSS families who are in good standing. Eligible uses include, but are not limited to:

- Transportation, childcare, training, testing fees, employment preparation costs, and other costs related to achieving goals in the Contract of Participation.
- Training for FSS Program Coordinator(s).
- Any other eligible activities that may be determined by the Secretary of HUD.

To request funds for an eligible need (if funds are available in this account), the head of the FSS family should submit a written request to the FSS Program Coordinator detailing the need for the funds and including any appropriate documentation to substantiate the request if needed, e.g., bill for a testing fee or training program. Requests will be considered on a case-by-case basis and will be reviewed by the Bureau Chief, Program Manager, and FSS Program Coordinator. Families denied funds from the forfeited escrow account may appeal the decision by submitting a written request for an Informal Hearing within 10 business days. This account is funded solely by forfeited escrows and there is no guarantee that funds will be available.

This account will not be used for uses prohibited by HUD such as salary and fringe for FSS Program Coordinators, general administrative costs of the program, housing assistance payments, or any other activity determined ineligible by the HUD Secretary.

## **SUCCESSFUL COMPLETION OF THE FSS PROGRAM AND FINAL ESCROW DISBURSEMENT**

Successful completion of the program occurs when:

- All goals in the ITSP(s) have been documented as completed.
- The head of the FSS family certifies that all household members are free from cash assistance. Cash assistance does not include food stamps, Medicaid, or a one-time payment of emergency assistance to help a family avoid eviction, pay utilities, or meet a medical expense.
- The head of the FSS family is suitably employed.
- It is possible to successfully graduate from the program if all goals are met before the Contract of Participation end date.

When goals have been documented as completed, the FSS Program Coordinator will submit a request to the Bureau Chief and Program Manager for final escrow disbursement. Escrows are not taxable and there are no restrictions on how escrow funds may be used. The FSS Program Coordinator will encourage individual financial counseling with the local Community Action Agency's Financial Education Coordinator so the participant has a plan in place before receiving the escrow funds. For Thrive participants interested in homeownership, referrals will be made



to Homeowner Counseling and Educational Services through Frederick's Community Action Agency, the Maryland Mortgage Program, and Habitat for Humanity of Carroll County.

Only at the time of final escrow disbursement will Carroll County Housing withhold any amounts due as part of a repayment agreement or back rent owed to a landlord.

The FSS Program Coordinator will follow up with program graduates as needed and continue to provide referrals and advocacy to encourage graduates in their journey to self-sufficiency. Graduates may request to continue to receive Thrive newsletters and are encouraged to continue working with community partners as needed.

## **TERMINATION WITH ESCROW DISBURSEMENT**

The Contract of Participation will be terminated with escrow disbursement under the following conditions:

- Services that Carroll County Housing and the FSS family have agreed are integral to the family's advancement towards self-sufficiency are unavailable.
- The head of the FSS family becomes permanently disabled and unable to work during the period of the contract, unless Carroll County Housing and the family determine that it is possible to modify the contract to designate a new head of the FSS family if another adult household member is available and willing. If a new head of the FSS family is designated, all adult household members would need to sign the "Acknowledgement of Family Self-Sufficiency Head."
- An FSS family in good standing moves outside Carroll County Housing's jurisdiction for good cause (as determined by Carroll County Housing), and completion of the Contract of Participation prior to the move is not possible or continuation after the move is not possible.

## **GRIEVANCE PROCEDURES**

Appeals of decisions by the FSS Program will follow the same procedures for appeals in the HCV Program. Appeals of unfavorable decisions to the participants such as terminating the Contract of Participation or denial of an interim disbursement should be requested in writing within 10 working days of the disputed decision. An Informal Hearing will then be scheduled.

**Addendum B**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,  
Sexual Assault, or Stalking**

DRAFT

# **EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

## **Carroll County Housing and Community Development**

### **EMERGENCY TRANSFERS**

Carroll County Housing and Community Development (also referred to as PHA or Carroll County Housing) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), Carroll County Housing allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit.

The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. The ability of the PHA to honor such a request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and upon whether there is another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based upon a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD) that oversees that Housing Choice Voucher Programs are in compliance with VAWA.

### **ELIGIBILITY FOR EMERGENCY TRANSFERS**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR Part 5, Subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains in the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

## **EMERGENCY TRANSFER REQUEST DOCUMENTATION**

To request an emergency transfer, the tenant should notify the PHA at 10 Distillery Drive, Suite 101, Westminster, Maryland, of the need for transfer documentation. Carroll County Housing will provide reasonable accommodations to this policy for individuals with disabilities. HUD-5383, Emergency Transfer Request, will be provided. The tenant's written request for an emergency transfer should include either:

- A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program, or
- A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

The PHA will request, in writing, that the tenant submit any one of the following as documentation of domestic violence, dating violence, sexual assault, or stalking. It is at the discretion of the tenant as to which of the following forms of documentation to submit:

- HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.
- A document signed by the tenant and an employee, agent, or volunteer of a victim service provider, an attorney, or medical/mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault or stalking, or the effects of abuse. This document should specify under penalty of perjury, that the professional believes in the occurrence of an incident of domestic violence, dating violence, sexual assault, or stalking that is the grounds for protection and remedies, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking.
- A record of a federal, state, tribal, territorial, or local law enforcement agency, court, or administrative agency.
- A statement or other evidence by the tenant may be accepted at the discretion of Carroll County Housing.

## **CONFIDENTIALITY**

Carroll County Housing will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the Housing Choice Voucher Program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant.

The Notice of Occupancy Rights under the Violence Against Women Act for All Tenants has more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking. Carroll County Housing will not scan or enter confidential information related to domestic violence in a database. Documentation will be kept separately, not in a tenant's file, and secured in an administrator's office.

VAWA does not limit Carroll County Housing's duty to honor court orders about access to or control of the property. This includes orders when issued to protect a victim and orders dividing property among household members in cases when a family breaks up.

## **EMERGENCY TRANSFER TIMING AND AVAILABILITY**

Carroll County Housing cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act quickly to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit. This is subject to availability and safety of a unit. The safety of a unit will be determined by the victim of domestic violence, dating violence, sexual assault, or stalking. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the new unit. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

When a transfer has been approved, Carroll County Housing will issue a voucher to the participant to enable them to search for another unit. The participant must notify their current landlord of their need to move and provide them with a written request certifying that they meet the criteria for an emergency transfer under VAWA. At the request of the participant, Carroll County Housing will assist them in communicating with the current

landlord regarding their need to move from their unit as quickly as possible.

If Carroll County Housing does not have a safe and available unit for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move.

At the tenant's request, the PHA will assist in contacting local organizations that offer assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **SAFETY AND SECURITY OF TENANTS**

During processing of the emergency transfer request and the actual transfer, the tenant is urged to take all reasonable precautions to be safe. Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, the hotline can be accessed by calling 1-800-787-3224 (TTY). An online chat for the National Domestic Violence Hotline is available at <https://www.thehotline.org/what-is-live-chat/>.

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE (4673) or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who have been victims of stalking and need help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

## **LOCAL RESOURCES**

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking are:

- 24-hour Carroll County Domestic Violence Hotline: 443-865-8031.
- Family and Children's Services office: 410-876-1233. Walk-ins are welcome from 8:30 am to 4:30 pm Monday through Friday at 22 N. Court Street in Westminster. Family and Children's Services will guide victims through the criminal justice system and offer crisis intervention, counseling, and temporary shelter. They can help with basic needs such as food, clothing, and accessing community resources.

- Rape Crisis Intervention Services of Carroll County: 24-hour hotline at 410-857-7322. Walk-ins are welcome at their office at 224 N. Center Street, Suite 102 in Westminster from 9:00 am to 5:00 pm Mondays through Thursdays and 9:00 am to 4:00 pm on Fridays. Their web address is [www.rapecrisiscc.org](http://www.rapecrisiscc.org).

## **DEFINITIONS UNDER VAWA**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual);  
or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and state or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**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 "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.