



Division of Supportive Housing and Homeless Programs

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SHELTER PLUS CARE PROGRAM ADMINISTRATIVE PLAN

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**SHHP Administrative Plan
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Introduction to the Administrative Plan

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

AUTHORITIES IN THE MODEL ADMINISTRATIVE PLAN

Authority for PHA policies is derived from many sources. Primary among these sources are 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. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

HUD

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

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

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

State Law

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

Industry Practice

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

RESOURCES CITED IN THIS ADMINISTRATIVE PLAN

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

Abbreviations

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

Abbreviation	Document
CFR	Code of Federal Regulations
S+C RM	Shelter Plus Care Resource Manual
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

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

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Shelter Plus Care Program Webpage http://www.hud.gov/offices/cpd/homeless/programs/splusc/index.cfm
Shelter Plus Care Resource Manual http://hudhre.info/index.cfm?do=viewSpcResourceMan
Understanding Shelter Plus Care http://hudhre.info/index.cfm?do=viewUnderstandingSpcPolicy
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm

Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html
General Income and Rent Determination FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001. www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD-50058 Instruction Booklet http://www.hud.gov/offices/pih/systems/pic/50058/pubs/ib/form50058ib.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/hud DOJstatement.pdf
<i>Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003</i> http://www.hudclips.org/sub_nonhud/cgi/pdf/31267.pdf
OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133/a133.html
PIH Notice 2002-01 (HA), Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/02/pih2002-1.pdf
PIH Notice 2004-18 (HA), Verification of Social Security (SS) and Supplemental Security Income (SSI) Benefits. http://www.hud.gov/offices/pih/publications/notices/04/pih2004-18.pdf
Verification FAQ www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

The HUD Website is <http://www.hud.gov/index.html>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Website:
<http://www.hud.gov/offices/adm/hudclips/>.

Source of Policies and Procedures for the Shelter Plus Care Program: All procedures or policies covered by this Shelter Plus Care Administrative Plan will be governed by the Shelter Plus Care Final Regulations (24 CFR 582) and the Housing Choice Voucher Program Regulations (24 CFR 982) and any and all other rules, regulations, and guidelines provided by HUD. SHHP may elect to periodically provide additional policy and procedure revisions through ‘action alerts’ as additional guidance is provided by HUD and/or as determined necessary.

NOTE: substitute the term “Rental Assistance Document (RAD) for “Voucher” where Housing Choice Voucher regulations are cited.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

Supportive Housing and Homeless Programs (SHHP) receives its funding for the Shelter Plus Care (S+C) program from the Department of Housing and Urban Development. SHHP is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income households. SHHP enters into Shelter Plus Care Contract with HUD to administer the program requirements on behalf of HUD. SHHP must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about SHHP and its programs with emphasis on the S+C program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

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

Part II: The S+C Program. This part contains information about the Shelter Plus Care program operation, roles and responsibilities, and partnerships.

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

PART I: SUPPORTIVE HOUSING AND HOMELESS PROGRAMS

1-I.A. OVERVIEW

Deinstitutionalization became a reality for thousands of state hospital patients in the late 1960s and early 70s. The release of mentally and developmentally disabled persons occurred because it was believed that placing these individuals in their communities with support services provided by community mental health centers and community centered boards would allow them more independence. However, little was done at that time to provide affordable, permanent housing for these populations.

For this reason in 1977, Community Housing and Services (CHS) was formed within the Department of Institutions' Executive Director's Office. The goal was to provide, through the use of Shelter Plus Care Program subsidies, safe, decent, sanitary and affordable housing for low income, disabled consumers in partnership with service agencies. CHS later added another goal: to stay abreast of other housing programs for persons with disabilities in order to provide and coordinate information to service agencies and provide supportive housing to persons with disabilities.

In July 1994, CHS became part of the Office of Self Sufficiency, Division of Aging and Adult Services, in the new Colorado Department of Human Services. The name of the unit was changed to Supportive Housing and Homeless Programs (SHHP) to better describe the role within the new Department. In December 1999, Supportive Housing and Homeless Programs moved to the Office of Behavioral Health and Housing. In the past, SHHP served chronically mentally ill, developmentally disabled, and youth on parole through the Shelter Plus Care Program. To better serve all consumers of the new Department of Human Services, SHHP continues to investigate opportunities to serve other consumers of the Department which include veterans, physically disabled, refugees, elderly, substance abusers, homeless persons, households with children, persons with brain injuries and others.

SHHP received the first S+C grant award in the state of Colorado in 1992. The need for and the success of the program prompted SHHP to apply for subsequent S+C grants. SHHP now administers hundreds of allocations through multiple local service agencies across Colorado.

1-I.B. ORGANIZATION AND STRUCTURE OF SUPPORTIVE HOUSING AND HOMELESS PROGRAMS

The tenant-based Shelter Plus Care (S+C) assistance program is funded by the federal government and administered by the Colorado Department of Human Services, division of Supportive Housing and Homeless Programs for the jurisdiction of The State of Colorado.

Staffing And Administration

SHHP delegates some of the administrative responsibility to supportive service agencies that provide housing services to applicants and participants of the Shelter Plus Care Program. These agencies are mental health service providers and homeless service providers.

These agencies will hereby be referred to in the remainder of this document as local service providers. SHHP enters into a contract) with these local service providers, the contract outlines each party's responsibilities.

Local service provider agencies employ housing coordinators who assist applicants and participants through the necessary Shelter Plus Care Program documentation and regulations to help them acquire and maintain units that conform to Shelter Plus Care Program regulations. Each local service provider must take the necessary steps to assure that housing coordinators receive adequate training in the administration of the Shelter Plus Care Program.

1-I.C. SHHP MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

The mission of SHHP's rental subsidy programs, are to assist the Department of Human Services and local service providers in providing appropriate care and treatment of consumers by:

- A. Administering a mechanism for identifying and providing affordable, decent, safe and sanitary housing for persons with disabilities served by the Department in the community;
- B. Monitoring implementation of HUD/SHHP's policies and procedures;
- C. Providing technical assistance and training in emerging issues related to housing for the low income disabled and others;
- D. Communicating to the public a positive, visible image of persons with disabilities and other special needs populations in order to open doors to possibilities and opportunities for them.

SHHP's goal is to provide the maximum opportunity for choice for its Shelter Plus Care Program participants in both housing and supportive services so they have greater control over their life circumstances and a sense of inclusion in their community.

Persons in SHHP's Shelter Plus Care Program have the opportunity to choose the type of housing, its location and with whom they wish to live. This housing is safe, decent, affordable, and permanent.

Persons with disabilities in SHHP's Shelter Plus Care Program also have the opportunity to choose the supportive services they need for independent living. SHHP's collaboration with local service providers ensures supportive services are offered to Shelter Plus Care Program participants. Services provided by local service providers and others in the community are varied and tailored to the individual's needs. Reception of services is not a condition for keeping one's housing. To be eligible for the program, applicants must be willing to participate in supportive services designed a assist them in maintaining in the community. Services are

delivered in the most normalized living environment possible, with the greatest choice afforded to the individual, given one's abilities/disabilities.

1-I.D. SHHP'S PROGRAMS

SHHP operates a number of subsidy programs through the federal Department of Housing and Urban Development (HUD). SHHP follows HUD regulations in the administration of these programs. This administrative plan addresses all local discretionary program functions in the Shelter Plus Care Program..

SHHP administers other programs with HUD funding. These include:

- A. Housing Choice Vouchers
- B. McKinney Homeless Housing Choice Voucher Program Single Room Occupancy Moderate Rehabilitation Program
- C. Project-Based Assistance
- D. Homeownership
- E. Welfare to Work Program
- F. Family Unification Program
- G. Project Access
- H. Certain Developments
- I. VASH

The Shelter Plus Care Program Administrative Plan acts as the primary plan for all S+C projects administered by SHHP.

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

As a public service agency, SHHP is committed to providing excellent service to S+C program participants – participants and owners – in the community. The PHA's standards include:

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

- Promote a market-driven housing program that will help qualified low-income participants be successful in obtaining affordable housing and increase the supply of housing choices for such participants.
- Create positive public awareness and expand the level of participant, owner, and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

SHHP will make every effort to keep program participants informed of S+C program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE SHELTER PLUS CARE (S+C) PROGRAM

1.II A. HISTORY AND GOALS OF THE SHELTER PLUS CARE PROGRAM

The Shelter Plus Care (S+C) program is authorized under Subtitle F of the McKinney-Vento Homeless Assistance Act.

Since 1992, HUD has awarded Shelter Plus Care (S+C) funds to state and local governments and public housing agencies (PHAs) to serve a population that has been traditionally hard to reach - homeless persons with disabilities such as serious mental illness, chronic substance abuse, and/or AIDS and related diseases. The S+C program was built on the premise that housing and services need to be connected in order to ensure the stability of housing for this population.

Consequently, S+C provides rental assistance that local grantees must match with an equal value of supportive services appropriate to the target population.

Local S+C projects are typically implemented through partnerships that include:

- a grantee;
- one or more nonprofit local service providers that own or coordinate leasing of housing for program participants; and
- a network of supportive services providers.

Program Purpose

The purpose of the program is to provide permanent housing in connection with supportive services to homeless people with disabilities and their families.

The primary target populations are homeless people who have:

- serious mental illness; and/or
- chronic problems with alcohol, drugs or both; and/or
- acquired immunodeficiency syndrome (AIDS) or related diseases.

The program provides rental assistance for a variety of housing choices, accompanied by a range of supportive services funded by other sources.

Program Goals

The goals of the Shelter Plus Care Program are to assist homeless individuals and their families to:

- Increase their housing stability;
- Increase their skills and/or income; and
- Obtain greater self-sufficiency.

Funding Process

Funding for new S+C projects is awarded competitively through HUD's Continuum of Care process to eligible applicants: States, units of local government and public housing authorities (PHAs). Successful applicants become "grantees" once the S+C grant agreement is fully executed.

HUD publishes an annual Notice of Funding Availability (NOFA) in the Federal Register announcing the combined competition for three homeless assistance programs: Shelter Plus Care, the Supportive Housing Program and the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals. The total amount allocated to any one of these programs is not determined in advance but depends upon the type of applications received and the competitive ranking of the projects.

Following review of the Continuum of Care applications, HUD selects projects for funding based upon the criteria found in the NOFA. Successful applicants will receive a Letter of Conditional Award. The letter outlines any conditions the S+C applicant must meet before the grant can be executed and program activities can begin. The grant agreement must be signed by both the applicant and HUD. The term of the grant begins as of the date that HUD signs the agreement. (See [Section 5.1](#) for more information on grant start dates.)

1-II.B. S+C PROGRAM BASICS

The purpose of the S+C program is to provide rental assistance to eligible participants. The rules and regulations of the S+C program are determined by the U.S. Department of Housing and Urban Development. Supportive Housing and Homeless Programs (SHHP) is afforded choices in the operation of the program, which are included in the PHA's administrative plan.

When a participant is determined to be eligible for the program and funding is available, SHHP issues the participant a RAD. When the participant finds a suitable housing unit and funding is available, SHHP will enter into a contract with the owner and the participant 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 participant is determined to be eligible for the program, the owner has the responsibility of approving the participant as a suitable renter. SHHP continues to make payments to the owner as long as the participant is eligible and the housing unit continues to qualify under the program.

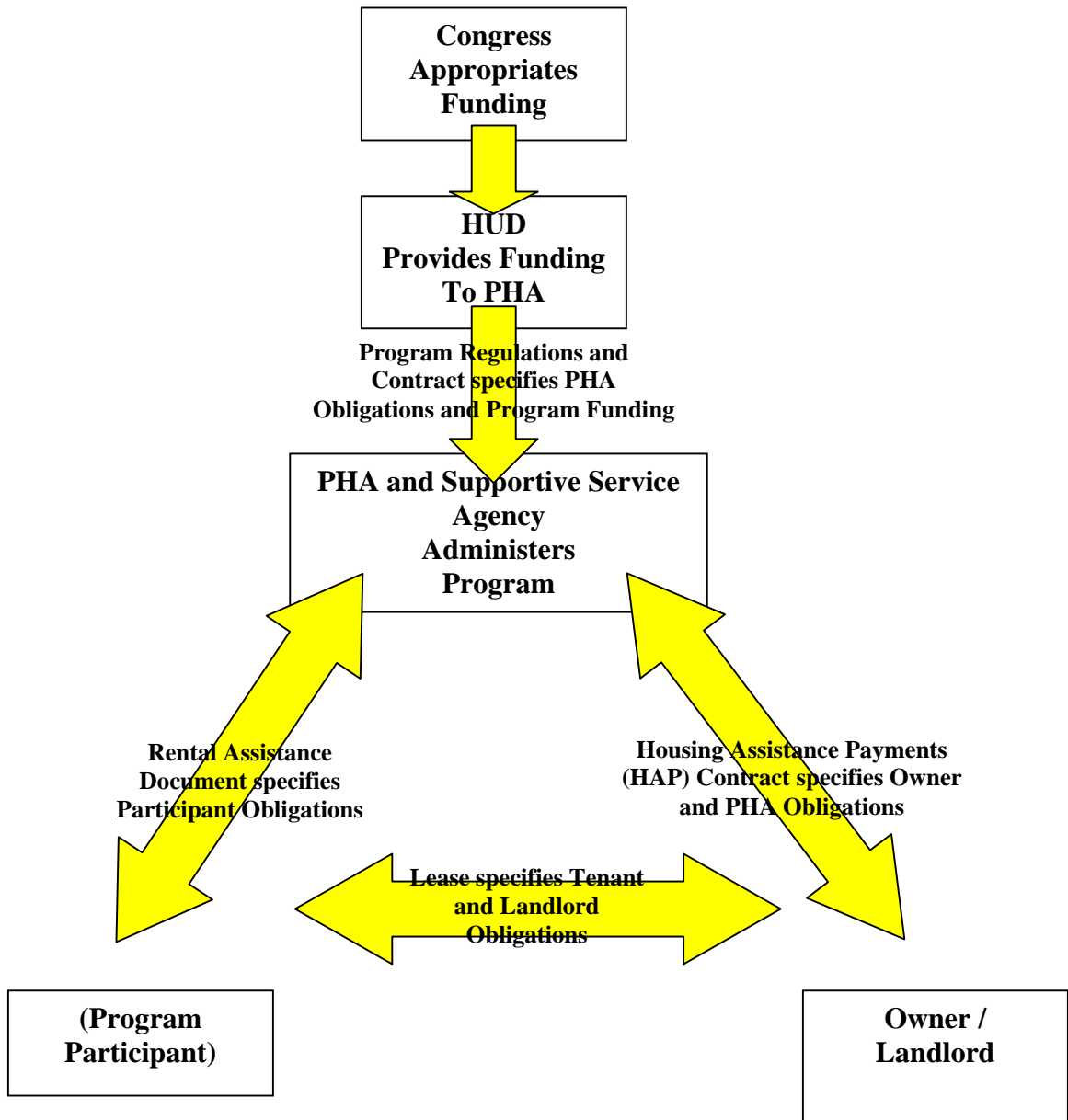
1-II.C. THE S+C PARTNERSHIPS

To administer the S+C program, SHHP enters into a contractual relationship with HUD. SHHP also enters into contractual relationships with the assisted participant and the owner or landlord of the housing unit.

For the S+C program to work and be successful, all parties involved – HUD, the PHA, the owner, and the participant – 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.

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

The S+C Relationships:



What does HUD do?

HUD has the following major responsibilities:

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

What does SHHP do?

SHHP administers the S+C program under contract with HUD and has the following major responsibilities:

- Establish local policies;
- Review applications from interested applicants to determine whether applicants are eligible for the program;
- Issue Rental Assistance Document (RAD) to selected participant and, if necessary, assist the participant in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that participants and their rental units continue to qualify under the program;
- Ensure that owners and participants comply with program rules;
- Provide participants and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, Shelter Plus Care Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen participants who apply for tenancy, to determine if they will be good renters. SHHP can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.

The owner should consider participant background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of

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

- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the participant and otherwise comply with and enforce provisions of the dwelling lease.

What does the Supportive Service Agency do?

Provide Supportive Services

All agencies will ensure that an applicant to the program is linked to services and has an active service and/or treatment plan in place. This service and/or treatment plan will be the document used to establish treatment compliance. The types and frequency of supportive services will be determined by the treating agency. Examples include:

- Individual therapy
- Brief therapy
- Group therapy
- Substance abuse groups
- Case management
- Living skills training
- Medication monitoring
- Medical Services- medication evaluations and medication shots
- Vocational rehabilitation services

The need of and frequency of case management services will be determined by the agency and outlined in the service/treatment plan. Examples of case management serves include:

- Goal/objective planning and monitoring.
- Prevocational and vocational skills training.
- Participation in transitional employment placements or supportive employment placements.
- Daily living skills training
- Medication management
- Psychotherapy
- Access to educational opportunities

- Linkage with medical and dental care as indicated and available
- Advocacy with landlords and law enforcement personnel, if needed
- Referrals to drug and alcohol treatment agencies
- Assistance with obtaining financial assistance/benefits in the form of SSI, SSDI, AND, TANF, Medicaid, Medicare, Employment, etc.

Provide Residential Services

At a minimum, the following residential services will be provided by the local service agency:

- Eligibility Determination and Maintain Program Lease-up: Recruiting participants, determining eligibility, and providing appropriate documentation of eligibility, verification of income and other necessary items;
- Housing Quality Inspections;
- Income and Rent Reasonableness Determination and Calculation;
- Record Keeping/Reporting.

Provide Outreach

SHHP's partner agencies will perform extensive community outreach to homeless persons with special needs. Examples of outreach include:

- Conducting outreach to known areas where homeless persons congregate, such as under bridges, in abandoned building, in parks, etc.;
- Conducting outreach to community homeless shelters;
- Providing outreach to other community based organizations which serve the homeless persons with special needs;
- Providing outreach and referrals of homeless persons from human service agency intake workers (i.e. therapists, case managers, social workers);
- Posting of public notices on community bulletin boards at service agency and other facilities, providing information about the Shelter Plus Care Program and instructions for referral to this program;
- Providing outreach to County Departments of Human/Social Services; and
- Conducting outreach to faith based organizations.

What does the Participant do?

The participant has the following responsibilities:

- Provide SHHP with complete and accurate information, determined by SHHP to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;

- Attend all appointments scheduled by the PHA;
- Allow SHHP to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the participant;
- Comply with the terms of the lease with the owner;
- Comply with the participant obligations of the RAD;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify SHHP and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the participant. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify SHHP of any changes in household composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 582: Shelter Plus Care Regulations

PART III: THE S+C ADMINISTRATIVE PLAN

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

The administrative plan is a required document by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan.

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 additional issues related to S+C not addressed in this document are governed by: federal regulations, HUD handbooks and guidebooks, notices and/or other applicable law. The policies in this administrative plan have been designed to ensure compliance with the Shelter Plus Care contracts and all HUD-approved applications for program funding.

Supportive Housing and Homeless Programs (SHHP) is responsible for complying with all changes in HUD regulations pertaining to the S+C program. If such changes conflict with this plan, HUD regulations will have precedence.

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

1-III.B. CONTENTS OF THE PLAN [24 CFR 582, S+C RM]

HUD regulations contain a list of what must be included in a Shelter Plus Care Program. SHHP administrative plan must cover PHA policies on these subjects:

- Selection and admission of applicants from Shelter Plus Care waiting lists, including any PHA admission preferences, and procedures for removing applicant names from the waiting list (Chapter 4);
- Issuing or denying Rental Assistance Documents (RAD), including PHA policy governing the RAD term and any extensions or suspensions of the RAD term. (Chapter 5);
- Occupancy policies, including definition of what group of persons may qualify as a participant, definition of when a participant is considered to be 'continuously assisted'; standards for denying admission or terminating assistance in accordance with 582.1 and 582.320 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a participant that claims that illegal discrimination has prevented the participant from leasing a suitable unit (Chapter 2);
- Providing information about a participant to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);

- Subsidy standards (Chapter 5);
- Participant absence from the dwelling unit (Chapter 12);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising RAD payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a participant to SHHP of amounts the participant owes SHHP (Chapter 16);
- Interim redeterminations of participant income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant (Chapter 10);
- Authorized uses of administrative fees (Chapter 16); and
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for behavior or suitability for tenancy (Chapter 3).

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring SHHP 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 SHHP's Shelter Plus Care (S+C) operations.

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of SHHP to ensure meaningful access to the S+C program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD and DOJ's Notice of Guidance, published December 19, 2003 in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require SHHP to treat all applicants and participants equally, providing the same quality of service, regardless of household characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. SHHP 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)
- Violence Against Women Reauthorization Act of 2005 (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

2-I.B. NONDISCRIMINATION

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

- SHHP shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

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

- SHHP will not discriminate on the basis of marital status or sexual orientation.

SHHP will not use any of these factors to:

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

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

Discrimination Complaints

If an applicant or participant believes that SHHP or an owner has discriminated against any household member, the participant should advise SHHP. HUD requires SHHP to make every reasonable attempt to determine whether the applicant or participant's assertions have merit and take any warranted corrective action. In addition, SHHP is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

- Applicants or participants who believe that they have been subject to unlawful discrimination may notify SHHP either orally or in writing.
- SHHP will attempt to remedy discrimination complaints made against SHHP.
- SHHP will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

SHHP must ensure that persons with disabilities have full access to SHHP's programs and services. This responsibility begins with the first inquiry of an interested participant and continues through every programmatic area of the S+C program.

- SHHP will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by SHHP, by including the following language or similar language:

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the S+C program. The types of reasonable accommodations SHHP can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for SHHP, 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, SHHP must modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside SHHP range) if SHHP determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the participant in seeking a unit

- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with SHHP staff
- Displaying posters and other housing information in locations throughout SHHP's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that SHHP 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 participant must explain what type of accommodation is needed to provide the person with the disability full access to SHHP's programs and services.

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

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

2-II.D. VERIFICATION OF DISABILITY

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

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

- If a person's disability is obvious, or otherwise known to SHHP, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- If a participant indicates that an accommodation is required for a disability that is not obvious or otherwise known to SHHP, SHHP must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, SHHP will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the

confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

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

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on SHHP, or fundamentally alter the nature of SHHP's S+C 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 cost of the requested accommodation, the financial resources of SHHP at the time of the request, the benefits that the accommodation would provide to the participant, and the availability of alternative accommodations that would effectively meet the participant's disability-related needs.

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

- After a request for an accommodation is presented, SHHP will respond, in writing, within 10 business days.
- If SHHP 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 SHHP's operations), SHHP will discuss with the participant whether an alternative accommodation could effectively address the participant's disability-related needs without a fundamental alteration to the S+C program and without imposing an undue financial and administrative burden.

- If SHHP believes that the participant has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, SHHP will notify the participant, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the participant.

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

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

At the initial point of contact with each applicant, SHHP 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, TTD/TTY (text telephone display / teletype) communication will be available.
- To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with SHHP 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.

2-II.G. PHYSICAL ACCESSIBILITY

SHHP must comply with a variety of regulations pertaining to physical accessibility, including the following:

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

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

- This plan describes the key policies that govern SHHP's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the S+C offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally funded housing programs.

The design, construction, or alteration of SHHP 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 S+C program.

When issuing a RAD to a participant that includes an individual with disabilities, the local service provider will include a current list of available accessible units known to SHHP and will assist the participant in locating an available accessible unit, if necessary.

In general, owners must permit the participant 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 participant's expense when the participant moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

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

2-III.A. OVERVIEW

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

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

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are S+C applicants and participants, and parents and household members of applicants and participants.

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

2-III.B. ORAL INTERPRETATION

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

- SHHP will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.
- Where feasible, SHHP will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, SHHP will encourage the use of qualified community volunteers.
- Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by SHHP. The interpreter may be a household member or friend.

2-III.C. WRITTEN TRANSLATION

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

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

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

2-III.D. IMPLEMENTATION PLAN

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

If SHHP determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to SHHP's Shelter Plus Care program and services.

- If it is determined that SHHP serves very few LEP persons, and SHHP has very limited resources, SHHP will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.
- If SHHP determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

This chapter contains three parts:

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

Part II: Basic Eligibility Criteria. This part discusses the eligibility criteria for the Shelter Plus Care program.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct that can cause SHHP to deny assistance.

PART I: DEFINITIONS OF PARTICIPANT AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13]

The terms *family* and *household* have different meanings in the S+C program.

Family

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. For purposes of the S+C program a single person family must be a disabled person. SHHP has the discretion to determine if any other group of persons qualifies as a family.

- A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.
- Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

Household

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

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

Family Break-up [24 CFR 982.315]

When a family breaks up, the original head of household retains the housing assistance.

- When a family on the waiting list breaks up into two otherwise eligible participants, only the initial applicant may retain the original application date. Other family members may make a new application with a new application date if the waiting list is open.

- If a family breaks up into two otherwise eligible participants while receiving assistance, only the participant will continue to be assisted.

Remaining Member of a Household [24 CFR 5.403]

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

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

3-I.D. PARTICIPANT

A *Participant* is defined by HUD [24 CFR 5.504(b)] as Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is designated as participant for purposes of the S+C Program and is responsible for ensuring that all responsibilities under the program are fulfilled, whether that is alone or in conjunction with a co-head or spouse.

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

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

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

Spouse means the marriage partner of the head of household.

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

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

- Minors who are emancipated under state law may be designated as a co-head.

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the participant, 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 deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

- Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time.
- When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, SHHP will make the determination based on available documents such as court orders, school records or an IRS return showing which family has claimed the child for income tax purposes.

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

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

- An *elderly family* is one in which the participant, spouse, co-head, or sole member is an elderly person. Identifying elderly participants is important because these participants qualify for special deductions from income as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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

As discussed in Chapter 2, SHHP must make all aspects of the S+C program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the participant, spouse, or co-head is a person with disabilities. Identifying disabled households is important because these families qualify for special deductions from income as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent SHHP from denying assistance for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from terminating assistance following the policies in Chapter 12.

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

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

- A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period or per the time constraints outlined in the lease, whichever is less.
- Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.
- A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

The term *foster child* is not specifically defined by the regulations.

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

- A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.
- A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

- Generally an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member.
- Generally an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

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

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

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

- If a child has been placed in foster care, SHHP will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. Cases will be reviewed every 6 months to ensure that the child is still expected to be returned to the home.

Absent Participant, Spouse, or Co-head

- An employed Participant, spouse, or co-head absent from the unit more than 120 consecutive days due to employment will continue to be considered a family member.

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

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

- SHHP will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

- The family must request SHHP approval for the return of any adult family members that SHHP has determined to be permanently absent. SHHP may not allow the return to the household if the individual has been absent for more than one year. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I.M. LIVE-IN AIDE

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

SHHP must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities. A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Spouses cannot be considered a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

- A family’s request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to SHHP verification-at each annual reexamination.
- In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.
- The live-in aide will not sign the lease, but his/her name and relationship to the tenant must be listed on the HAP Contract. 24-hour rotating staff will not be considered live-in aides. A tenant has the right to request a reasonable accommodation for an additional bedroom for 24-hour rotating staff. This request will be granted if the tenant is able to supply a copy of the service agreement verifying that the rotating staff is able to sleep during their overnight shift.
- The live-in aide must provide a valid Colorado photo identification card, sign a Declaration of Section 214 Status and pass a criminal background check.
- SHHP will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:
 - The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
 - The person commits drug-related criminal activity or violent criminal activity; or
 - The person currently owes rent or other amounts to SHHP or to another SHHP in connection with Section 8 or public housing assistance under the 1937 Act.
 - The person is unable to pass SHHP’s background check.

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

PART II: BASIC ELIGIBILITY CRITERIA

To be eligible for the S+C program:

- The applicant must:
 - Meet the HUD homeless definition as it applies to the S+C program.
 - One adult member must meet the program definition of disabled.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of household members.
 - Provide social security number information for household members as required.
 - Consent to SHHP's collection and use of family information as provided for in SHHP-provided consent forms.

3-II.B. DEFINITION OF HOMELESSNESS

A person is considered homeless when he/she resides in one of the places described below:

- In places not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street).
- In an emergency shelter.
- In transitional or supportive housing for homeless persons who originally came from the streets or emergency shelters.
- In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution.
- Is being discharged within a week from an institution, such as a mental health or substance abuse treatment facility or a jail/prison, in which the person has been a resident for more than 30 consecutive days and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.
- Is fleeing a domestic violence housing situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.
- In addition, persons who ordinarily sleep on the street or in emergency or transitional housing but are spending a short time (30 consecutive days or less) in a hospital or other institution will also be considered eligible for assistance

For program applicants who spent last night in transitional housing for homeless persons, jail, or institutions, written documentation must be provided to SHHP that the applicant originally came from places not meant for human habitation or from emergency shelters.

Chronic Homelessness

For certain S+C Housing Programs HUD requires that a certain number of participants meet the following chronically homeless definition. Chronic homelessness refers to an unaccompanied homeless individual with a disabling condition who has either been continuously homeless for a year or more **OR** has had at least four (4) episodes of homelessness in the past three (3) years. To be considered chronically homeless, persons must have been sleeping in a place not meant for human habitation (e.g., living on the streets) and/or in an emergency shelter during that time.

Disabling condition is defined as “a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.”

3-II.B. DEFINITION AND DOCUMENTATION OF DISABILITY

Persons with disabilities are defined as:

"Persons with disabilities" — a household composed of one or more persons at least one of whom is an adult who has a disability.

1. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such nature that such ability could be improved by more suitable housing conditions.
2. A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that
 - (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) Is manifested before the person attains age 22;
 - (iii) Is likely to continue indefinitely;
 - (iv) Results in substantial functional limitations in three or more of the following areas of major life activity;

- (A) Self-care
- (B) Receptive and expressive language;
- (C) Learning;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living; and
- (G) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

Targeted disabilities for the S+C Program include serious mental illness, chronic problems with alcohol and/or drugs, and acquired immunodeficiency syndrome (AIDS) or related diseases. Key to the definition is determining that the impairment is of long-continued and indefinite duration AND **substantially impedes** the person's ability to live independently. For example, drug or alcohol abuse or an HIV/AIDS condition that does not substantially impede a person's ability to live independently **does not** qualify as a disability in the S+C Program. Written documentation that a person's disability meets the program definition must come from a credentialed psychiatric or medical professional trained to make such a determination. The possession of a title such as case manager or substance abuse counselor does not by itself qualify a person to make that determination. "Self-certification" is also unacceptable.

3-II.C. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the Shelter Plus Care program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

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

- *Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- *Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- *Extremely low-income family.* A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

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. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a 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 at the time the family is admitted to the S+C program [24 CFR 982.4]
 - SHHP will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a RAD by SHHP.
- A low-income family that qualifies for RAD assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits SHHP to establish additional categories of low-income participants that may be determined eligible. The additional categories must be consistent with SHHP plan and the consolidated plans for local governments within SHHP's jurisdiction.

- SHHP has not established any additional categories of eligible low-income participants.

Using Income Limits for Targeting [24 CFR 982.201]

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

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

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

All applicants must be notified of the requirement to submit evidence of their citizenship status when they apply.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, 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 non-citizens. For citizens, nationals and eligible non-citizens 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 Non-citizens below).

The state of Colorado HB 06-1023 requires all individuals who receive assistance from the program must complete a declaration of citizenship. SHHP will require all household members sign a Declaration of 214 Status.

U.S. Citizens and Nationals

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

All applicants and participants in SHHP's programs must meet the requirements of Colorado HB 06-1023 by presenting one of the following documents:

1. Valid Colorado Driver's License or ID card.
2. A valid photo identification document issued by the Bureau of Indian Affairs.
3. A military identification card or common access card issued by the US Dept. of Defense.
4. Valid driver's license from one of the authorized identified US states.
5. An approved waiver through the Dept. of Motor Vehicle.

Eligible Non-citizens

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

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

Ineligible Non-citizens

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. SHHP is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS). Providing housing assistance to non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Households

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

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

SHHP may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by SHHP that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to SHHP in accordance with program requirements [24 CFR 5.512(a)].

- SHHP will not provide assistance to a family before the verification of at least one family member.
- When a SHHP determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.
- The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with SHHP. The informal hearing with SHHP may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

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

3-II.E. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

All members of the applicant's household must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a household member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the new member's SSN documentation must be submitted at the household's next interim or regular reexamination, whichever comes first. If any member of the household obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

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

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

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

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

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

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 S+C 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 S+C assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with SHHP 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 S+C assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

Definitions

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

Dependent Child

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

Independent Student

SHHP will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the student is a participant in the Family Unification Program (FUP) for Youth. If the student is not a participant in the Youth FUP program, the following four criteria must be 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 the U.S. Department of Education's definition of independent student.
 - To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

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

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

Institution of Higher Education

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

Parents

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

Veteran

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, SHHP 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, SHHP 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.

For any student who is subject to the 5.612 restrictions, SHHP will:

- Follow its usual policies in determining whether the student individually and the student’s “family” collectively are eligible for the program
- Determine whether the student is independent from his/her parents in accordance with the definition of *independent student* in this section
- Follow the policies below, if applicable, in determining whether the student’s parents are income eligible for the program

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

Determining Parental Income Eligibility

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

- If the student’s parents are married and living together, SHHP will obtain a joint income declaration and certification of joint income from the parents.
- If the student’s parent is widowed or single, SHHP will obtain an income declaration and certification of income from that parent.
- If the student’s parents are divorced or separated, SHHP will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, SHHP 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. SHHP will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

In addition, HUD requires or permits SHHP to deny assistance based on certain types of current or past behaviors of family members.

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

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside SHHP's jurisdiction
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking

3-III.B. PERMITTED REASONS FOR DENIAL OF ASSISTANCE

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, SHHP to deny assistance if SHHP determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

SHHP **will** deny assistance to an applicant if:

- The applicant does not provide information that SHHP or HUD determines is necessary in the administration of the program.
- The applicant does not provide complete and true information to SHHP.
- The applicant has breached the terms of a repayment agreement entered into with SHHP, and is unwilling to enter into a new repayment agreement upon entry to the program.
- A family member has engaged in or threatened violent or abusive behavior toward SHHP personnel.

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

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

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

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

3-III.C. SCREENING

Screening for Eligibility

SHHP is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the S+C program. SHHP does not perform a criminal background check on any applicant head of household. SHHP will perform a criminal background check for any adult requesting to be added to the household. SHHP will deny the addition of any persons who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records SHHP must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

If SHHP proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, SHHP must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record if requested 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)].

Screening for Suitability as a Tenant [24 CFR 982.307]

SHHP has no liability or responsibility to the owner for the family's behavior or suitability for tenancy.

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

HUD requires SHHP to provide prospective owners with the family's current and prior address (as shown in SHHP records) and the name and address (if known) of the owner at the family's current and prior addresses.

- SHHP will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before if requested. SHHP will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

- If a participant does not meet the basic criteria for the S+C Program
- They will be denied assistance.
- SHHP will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

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

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

SHHP will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

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

Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]

HUD permits SHHP to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which results in the denial of assistance, to not reside in the unit.

- As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit.
- After admission to the program, the family must present evidence of the former family member's current address upon SHHP request.

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

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

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

3-III.E. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, SHHP will notify the family when it extends the invitation to attend the RAD briefing appointment, as discussed in Chapter 5.

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

- The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

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

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

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(4)(A) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the Shelter Plus Care program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate reason for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

Definitions

As used in VAWA:

- The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the

existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.
- The term *immediate family member* means, with respect to a person:
- A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
- Any other person living in the household of that person and related to that person by blood and marriage.

Notification

- SHHP acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history- (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under SHHP's policies. Therefore, if SHHP makes a determination to deny admission to an applicant family, SHHP will include in its notice of denial:
 - A statement of the protection against denial provided by VAWA
 - A description of PHA confidentiality requirements
 - A request that an applicant wishing to claim this protection submit to the PHA documentation meeting the specifications below with her or his request for an informal review (see section 16-III.D)

Documentation

Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide

documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking
- A police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, 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.

Perpetrator Documentation

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Time Frame for Submitting Documentation

- The applicant must submit the required documentation with her or his request for an informal review (see section 16-III.D) or must request an extension in writing at that time. If the applicant so requests, SHHP will grant an extension of 10 business days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant SHHP determines the family is eligible for assistance, no informal review will be scheduled and SHHP will proceed with admission of the applicant family.

SHHP Confidentiality Requirements

All information provided to SHHP regarding domestic violence, dating violence, 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 database 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.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
- In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) In General

The term “developmental disability” means a severe, chronic disability of an individual that:

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A)

if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes 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.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

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

(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION
[20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of “Institution of Higher Education” From 20 U.S.C. 1001

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that
 - (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—
 - (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of “Institution of Higher Education” From 20 U.S.C. 1002

- (a) Definition of institution of higher education for purposes of student assistance programs
 - (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of

this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

- (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
- (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
- (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

- (i) In the case of a graduate medical school located outside the United States—
 - (I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and
 - (bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or
 - (II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or
- (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

- (i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
 - (I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
 - (II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

- (ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.
 - (C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.
 - (D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.
- (3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
- (A) Offers more than 50 percent of such institution’s courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
 - (B) Enrolls 50 percent or more of the institution’s students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;
 - (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree, or an associate’s degree or a postsecondary diploma, respectively; or
 - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree or an associate’s degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care

- educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
- (B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.
- (b) Proprietary institution of higher education
- (1) Principal criteria. For the purpose of this section, the term "proprietary institution of higher education" means a school that—
- (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
- (B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
- (C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
- (D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;
- (E) Has been in existence for at least 2 years; and
- (F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
- (2) Additional institutions. The term "proprietary institution of higher education" also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) Postsecondary vocational institution.
- (1) Principal criteria. For the purpose of this section, the term "postsecondary vocational institution" means a school that—
- (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
- (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
- (C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a participant wishes to receive S+C assistance, the participant must submit an application that provides SHHP with the information needed to determine the participant's eligibility. HUD requires SHHP to place all eligible participants that apply for assistance on a waiting list if a project is full. When S+C assistance becomes available, SHHP must select participants from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan.

SHHP is required to adopt a clear approach to accepting applications, placing households on the waiting list, selecting households from the waiting list and must follow this approach consistently.

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

This chapter describes HUD and SHHP policies for taking applications, managing the waiting list and selecting households for S+C assistance. The policies outlined in this chapter are organized into three sections, as follows:

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

Part II: Managing the Waiting List. This part presents the policies that govern how SHHP administers the waiting list process. It also discusses the process SHHP will use to keep the waiting list current.

Part III: Selection for S+C Assistance. This part describes the policies that guide SHHP in selecting households for S+C assistance as such assistance becomes available.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide SHHP's efforts to distribute and accept applications. This part also describes SHHP's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE

Any participant that wishes to receive S+C assistance must apply for admission to the program. HUD permits SHHP to determine the format and content of S+C applications, as well as how such applications will be made available to interested participants and how applications will be accepted by SHHP.

SHHP accepts applications from local service agencies when there is an opening in a project. The local service agency is responsible for pre-screening applicants to ensure that they meet initial eligibility criteria and to maintain a waiting list for the S+C program when projects are full.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8]

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

Limited English Proficiency

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

PART II: MANAGING THE WAITING LIST

4-II.A. ORGANIZATION OF THE WAITING LIST

Each agency will have a written selection process that they will follow for all applicants and will maintain all documentation required for participants of the program. All agencies will use either a waiting list policy that ranks applicants based on an established and written ranking system or a date and time process. Preferences may be given to applicants meeting HUD's chronic homeless definition (*See S+C-AP Chapter 3 for definition*) and those with S+C targeted disabilities. SHHP may require partner agencies to utilize their housing management software and/or the Colorado HMIS system to maintain S+C waiting lists. Once an applicant is drawn from the waiting list, the SHHP Shelter Plus Care application, homeless verification, and disability verification must be submitted to the SHHP S+C Program Specialist for approval. Once approved, the SHHP S+C Program Specialist will send the partner agency the Rental Assistance Document (RAD) to issue to the applicant during the mandatory applicant briefing. The RAD is similar to a Housing Choice Voucher Program 'voucher' and allows the applicant to search for a unit, but does not guarantee admission to the program.

4-II.B. UPDATING THE WAITING LIST

Agencies are responsible for maintaining current information on their applicants at all times. Once every six months, SHHP recommends agencies purge their waiting list. Applicants may be removed from the waiting list for failure to respond to written requests for information within a reasonable time, applicant request for removal, repeated failure to show up for scheduled appointments, and/or the applicant no longer meets the eligibility criteria for the S+C program.

PART III: SELECTION FOR S+C ASSISTANCE

4-III.A. OVERVIEW

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

The order in which applicants receive assistance from the waiting list depends on the selection method chosen by the local service agency and approved by SHHP.

SHHP must maintain a clear record of all information required to verify that the participant is selected according to SHHP's selection policies.

4-III.B. NOTIFICATION OF SELECTION

When a participant has been selected from the waiting list, SHHP will send the RAD to the local service provider who will ensure the following steps are completed.

The local service provider will notify the participant by first class mail when it is selected from the waiting list. The notice will inform the participant of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview
 - Documents to verify the legal identity of all household members (including children), including information about what constitutes acceptable documentation
 - Verification of Income and expenses
- Other documents and information that should be brought to the interview

If a notification letter is returned to SHHP with no forwarding address, the local service agency will conduct outreach in an attempt. If the local service provider is unable to contact the applicant after reasonable outreach attempts have been made, the applicant will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the participant's address of record, as well as to any known alternate address.

4-III.C. THE APPLICATION INTERVIEW

HUD recommends that SHHP obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

- Participants selected from the waiting list are required to participate in an eligibility interview.

- The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to SHHP.
- The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the participant does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.
- The participant must provide the information necessary to establish eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the local service provider will provide the participant with a written list of items that must be submitted.
- Any required documents or information that the participant is unable to provide at the interview must be provided within 5 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the participant is unable to obtain the information or materials within the required time frame, the participant may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the participant will be sent a notice of denial (See Chapter 3).
- An advocate, interpreter, or other assistant may assist the participant with the application and the interview process.
- Interviews will be conducted in English. For limited English proficient (LEP) applicants, SHHP will provide translation services in accordance with SHHP's LEP plan.
- If the participant is unable to attend a scheduled interview, the participant should contact SHHP and/or the local service provider in advance of the interview to schedule a new appointment. In all circumstances, if a participant does not attend a scheduled interview, SHHP and/or the local service provider will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will be denied assistance based on the participant's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.D. COMPLETING THE APPLICATION PROCESS

SHHP must verify all information provided by the participant (see Chapter 7). Based on verified information, SHHP must make a final determination of eligibility (see Chapter 3).

- If SHHP determines that the participant is ineligible, SHHP will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the participant of its right to request an informal review (Chapter 16).
- If SHHP determines that the participant is eligible to receive assistance, SHHP will then proceed with the participant briefing in accordance with the policies in Chapter 5.

Chapter 5

BRIEFINGS AND RENTAL ASSISTANCE DOCUMENT ISSUANCE

INTRODUCTION

This chapter explains the briefing and Rental Assistance Document (RAD) issuance process. When a participant is determined to be eligible for the Shelter Plus Care (S+C) program, SHHP must ensure that the participant fully understands the way the program operates and the participant's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the participant needs to know. Once the participant is fully informed of the program's requirements, SHHP issues the participant a RAD. The RAD includes the unit size the participant qualifies for based on SHHP's subsidy standards, as well as the dates of issuance and expiration of the RAD. The RAD is the document that permits the participant to begin his/her search for a unit, and limits the amount of time the participant has to successfully locate an acceptable unit.

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

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

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

PART I: BRIEFINGS AND PARTICIPANT OBLIGATIONS

5-I.A. OVERVIEW

HUD regulations require SHHP through the local service provider to conduct mandatory briefings for applicants. The briefing provides a broad description of owner and participant responsibilities, explains SHHP's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to participants, and lists the participant's obligations under the program.

5-I.B. BRIEFING

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

- Briefings will be conducted in both group and in one-on-one meetings.
- All adult household members are required to attend the briefing.
- Participants that attend group briefings and still need individual assistance will be referred to an appropriate PHA staff person.
- Briefings will be conducted in English. For limited English proficient (LEP) applicants, SHHP will provide translation services upon request (See Chapter 2).

Notification and Attendance

- Participants will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will state that all adult household members are required to attend the briefing, as well as the date and time of the scheduled briefing.
- If the notice is returned by the post office with no forwarding address, the local service agency will conduct outreach in an attempt to encourage the applicant attend the briefing. If the local service provider is unable to contact the applicant after reasonable outreach attempts have been made, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.
- Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The local service agency will conduct outreach in an attempt to encourage the applicant attend the briefing. SHHP will notify the participant of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without PHA approval, will be denied assistance (see Chapter 3).

Oral Briefing

Each briefing must provide information on the following subjects:

- How the Shelter Plus Care program works;
- Participant and owner responsibilities; and
- Where the participant can lease a unit.

Briefing Packet

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

- The term of the RAD, and SHHP's policies on any extensions or suspensions of the term;
- How the participant can request an extension;
- A description of the method used to calculate the housing assistance payment for a participant, including how SHHP determines the Fair Market Rent (FMR) for a participant, how SHHP determines total tenant payment for a participant, and information on the payment standard and utility allowance schedule.
- An explanation of how SHHP determines the maximum allowable rent for an assisted unit.
- Where the participant may lease a unit.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the participant must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of SHHP policy on providing information about participants to prospective owners.
- SHHP subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted participants or help participants find units, especially outside areas of poverty or minority concentration.
- Notice that the participant may request a list of available accessible units known to SHHP.
- The participant obligations under the program.
- The grounds on which SHHP may terminate assistance for a participant because of family action or failure to act.
- PHA informal hearing procedures including when SHHP is required to offer a participant the opportunity for an informal hearing, and how to request the hearing.

The following additional information must be included in the briefing packet.

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

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners.

SHHP will provide the following additional materials in the briefing packet:

- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a household must avoid and the penalties for program abuse.
- Information on VAWA.

5-I.C. PARTICIPANT OBLIGATIONS

Obligations of the participant are described in the Shelter Plus Care (S+C) regulations, the S+C Statement of Understanding, and on the RAD itself. These obligations include responsibilities the participant is required to fulfill, as well as prohibited actions. SHHP must inform participants of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the participant's unit is approved and the HAP contract is executed, the participant must meet those obligations in order to continue participating in the program. Violation of any participant obligation may result in termination of assistance, as described in Chapter 12.

Time Frames for Reporting Changes Required By Participant Obligations

- Unless otherwise noted below, the participant obligations require the participant to respond to a request or to notify SHHP of a change in income or household composition, within 10 business days.
- When a participant is required to provide notice to SHHP, the notice must be in writing.

Participant Obligations

Following is a listing of participant obligations under the S+C program:

- The participant must supply any information that SHHP or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The participant must supply any information requested by SHHP or HUD for use in a regularly scheduled reexamination or interim reexamination of household income and composition.

- The participant must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the participant must be true and complete.
- The participant is responsible for any Housing Quality Standards (HQS) breach by the participant caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
 - Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.
- The participant must allow SHHP to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The participant's household must not commit any serious or repeated violation of the lease.
 - SHHP will determine if a participant's household has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.
 - Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.
- The participant must notify SHHP and the owner before moving out of the unit or terminating the lease.
 - The participant must comply with lease requirements regarding written notice to the owner. The participant must provide written notice to SHHP and/or the local service provider at the same time the owner is notified.
- The participant must promptly give SHHP a copy of any owner eviction notice.
- The participant must use the assisted unit for residence by the participant. The unit must be the participant's only residence.
- The composition of the assisted household residing in the unit must be approved by SHHP. The participant must promptly notify SHHP in writing of the birth, adoption, or court-awarded custody of a child. The participant must request PHA approval to add any other household member as an occupant of the unit.
 - The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. SHHP will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The participant must promptly notify SHHP in writing if any household member no longer lives in the unit.

- If SHHP has given approval, a foster child or a live-in aide may reside in the unit. SHHP has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The participant must not sublease the unit, assign the lease, or transfer the unit.
 - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a household member.
- The participant must supply any information requested by SHHP to verify that the participant's family is living in the unit or information related to family absence from the unit.
- The participant must promptly notify SHHP when the participant's family is absent from the unit.
 - Notice is required under this provision only when all household members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to SHHP at the start of the extended absence.
- The participant must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [S+C Housing Assistance Payments Contract].
- The participant must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Household members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Household members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted participant or member of the household must not receive S+C program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A participant must not receive S+C program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of

the household, unless SHHP has determined (and has notified the owner and the participant of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a household member who is a person with disabilities. [S+C Housing Assistance Payments Contract]

- A participant must remain in compliance with his/her service and/or treatment plan. This may include working with a case manager and/or therapist, psychiatric care, substance abuse treatment, and/or vocational/pre-vocational services.

PART II: SUBSIDY STANDARDS AND RAD ISSUANCE

5-II.A. OVERVIEW

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

5-II.B. DETERMINING PARTICIPANT UNIT (RAD) SIZE [24 CFR 982.402]

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

The following requirements apply when SHHP determines participant unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a participant without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all participants of like size and composition.
- A child who is temporarily away (6-months) from the home because of placement in foster care is considered a member of the household in determining the participant unit size.
- A household that consists of a pregnant woman (with no other persons) must be treated as a two-person household.
- For subsidy standards, an adult is an individual who is 18 years old.
- Any live-in aide (approved by SHHP to reside in the unit to care for a household member who is disabled or is at least 50 years of age) must be counted in determining the participant unit size;
- Unless a live-in aide resides with a participant, the participant unit size for any household consisting of a single person must be either a zero- or one-bedroom unit, as determined under SHHP subsidy standards.

SHHP will assign one bedroom for each two persons within the household, except in the following circumstances:

- Generally, persons of different generations, persons of the opposite sex (other than spouses or co-heads), and unrelated adults (except for same-sex domestic partners) should be allocated a separate bedroom. “Different generations” means the difference

between a parent and a grandparent, a parent and a child, etc. “Different generations” does not refer to siblings of significantly different ages.

- A single parent with a child under the age of 3 will be issued a 1-bedroom RAD and expected to share a bedroom.
- Household members of the opposite sex who are under the age of 7 will be expected to share a bedroom.
- Live-in aides will be allocated a maximum of one bedroom. No additional bedrooms will be provided for additional household members of the live-in aide.
- Single person households will be allocated one bedroom.
- Foster children will be considered when determining bedroom size upon third party verification of placement.

SHHP will reference the following chart in determining the appropriate RAD size for a participant’s household:

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

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a household member’s disability, medical or health condition

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

- SHHP will consider granting an exception as a reasonable accommodation for an individual with a disability.
 - The participant must request any exception to the subsidy standards in writing.
 - The request must explain the need or justification for a larger unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related request for

accommodation is readily apparent or otherwise known. The participant's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

SHHP will notify the participant of its determination within 10 business days of receiving the participant's request. If a participant's request is denied, the notice will inform the participant of their right to request an informal hearing.

- SHHP will take into consideration children living in the unit on a part-time basis when determining appropriate RAD size. SHHP will only grant a larger allocation if the participant can provide SHHP with 3rd party verification that the children resided with the RAD holder at least 51% of the time per week.
 - A child who is “temporarily away” (up to six months) from the home because of placement in foster care is considered a member of the household. At the end of the six-month period, verification of the out-of-home placement will require documentation from the court or social service agency that states the placement is extended in order for the participant to continue to include the dependent as a household member. If this documentation is not received at 6-months, the participant will be considered over housed and their RAD size will be reduced if applicable.

Note: Persons related by blood, marriage or domestic partnership that are denied access to the program by SHHP will not be allowed to live in the subsidized unit as a roommate.

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

When a participant is selected from the waiting list, or when a participant wants to move to another unit, SHHP issues a Rental Assistance Document (RAD). This chapter deals only with RAD issuance for applicants. For RAD issuance associated with moves of program participants, please refer to Chapter 10.

The RAD is the participant's authorization to search for housing. It specifies the unit size for which the participant qualifies, and includes both the date of RAD issuance and date of expiration. It contains a brief description of how the program works and explains the participant obligations under the program. The RAD is evidence that SHHP has determined the participant to be eligible for the program, and that SHHP expects to have money available to subsidize the participant if the participant finds an approvable unit. However, SHHP does not have any liability to any party by the issuance of the RAD, and the RAD does not give the participant any right to participate in SHHP's Shelter Plus Care program [S+C].

A RAD can be issued to an applicant only after SHHP has determined that the participant is eligible for the program based on information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the participant has attended an oral briefing.

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

SHHP should have sufficient funds to house an applicant before issuing a RAD. If funds are insufficient to house the participant at the top of the waiting list, SHHP must wait until it has adequate funds before it calls another participant from the list.

- Prior to issuing any RADs, SHHP will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

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

If SHHP makes an error in determining the bedroom size designation, the participant will be issued a RAD of the appropriate size at their next annual review.

5-II.E. RAD TERM, EXTENSIONS, AND SUSPENSIONS

RAD Term

The initial term of a RAD must be at least 60 calendar days. [RAD]

- The initial RAD term will be 60 calendar days.
- The participant must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless SHHP grants an extension.

Extensions of RAD Term

SHHP 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. There is no limit on the number of extensions that SHHP can approve. Discretionary policies related to extension and expiration of search time must be described in SHHP's administrative plan.

SHHP 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.

The participant must be notified in writing of SHHP's decision to approve or deny an extension. SHHP's decision to deny a request for an extension of the RAD term is not subject to informal review.

- SHHP will approve a maximum of two extensions for 30-days at a time. Extensions beyond 120 days will only be approved in the following circumstances:
- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the participant's control, as determined by SHHP. Following is a list of extenuating circumstances that SHHP may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the family
 - Other family emergency

- Obstacles due to employment
- Whether the participant has already submitted requests for tenancy approval that were not approved by SHHP
- Whether household size or other special requirements make finding a unit difficult

Any request for an additional extension will only be granted as a reasonable accommodation for an individual with a disability. This request must include the reason(s) an additional extension is necessary. SHHP may require the participant to provide documentation to support the request.

All requests for extensions to the RAD term must be made in writing and submitted to SHHP prior to the expiration date of the RAD (or extended term of the RAD).

SHHP will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the participant written notice of its decision.

Suspensions of RAD Term

At its discretion, SHHP may adopt a policy to suspend the Shelter Plus Care term if the participant has submitted a Request for Tenancy Approval (RFTA) during the RAD term. “Suspension” means stopping the clock on a participant’s RAD term from the time a participant submits the RFTA until the time SHHP approves or denies the request [24 CFR 982.4]. SHHP’s determination not to suspend a RAD term is not subject to informal review [24 CFR 982.554(c)(4)].

- When a Request for Tenancy Approval and proposed lease is received by SHHP, the term of the RAD will not be suspended while SHHP processes the request.

Expiration of RAD Term

Once a participant’s Shelter Plus Care term (including any extensions) expires, the participant is no longer eligible to search for housing under the program. If the participant still wishes to receive assistance, SHHP may require that the participant reapply, or may place the participant on the waiting list with a new application date but without requiring reapplication. Such a participant does not become ineligible for the program on the grounds that it was unable to locate a unit before the RAD expired [HCV GB p. 8-13].

- If an applicant’s RAD term or extension expires before the participant has submitted a Request for Tenancy Approval (RFTA), SHHP will require the participant to reapply for assistance. If a RFTA that was submitted prior to the expiration date of the RAD is subsequently disapproved by SHHP (after the RAD term has expired), the participant will be required to reapply for assistance.
- Within 10 business days after the expiration of the RAD term or any extension, SHHP will notify the participant in writing that the RAD term has expired and that the participant must reapply in order to be placed on the waiting list.

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

INTRODUCTION

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

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

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all household members must be counted unless specifically excluded by the regulations.

It is the responsibility of the head of household to report changes in household composition or household income. Participants are required to report all changes in income and household composition to their local service provider and/or SHHP within 10-business days of receiving notification of the change.

The rules on which sources of income are counted vary somewhat by household member. The chart below summarizes how household composition affects income determinations.

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

Temporarily and Permanently Absent Household Members

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

- Generally an individual who is or is expected to be absent from the assisted unit for 120 consecutive days or less is considered temporarily absent and continues to be considered a household member. Generally an individual who is or is expected to be absent from the assisted unit for more than 120 consecutive days is considered permanently absent and no longer a household member. Exceptions to this general policy are discussed below.

Absent Students

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

Absences Due to Placement in Foster Care

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

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

Absence of Entire Household

These policy guidelines address situations when the household is absent from the unit, but has not moved out of the unit. "Absence" means that no member of the family is residing in the unit. In cases where the household has moved out of the unit, SHHP will terminate assistance in accordance with appropriate termination procedures contained in this Plan. Participants are required both to notify SHHP before they move out of a unit and to give SHHP information about any household absence from the unit.

If it becomes necessary for a participant family to temporarily live somewhere other than the subsidized unit because of hospitalization, incarceration, or other serious reason, SHHP will consider making the housing assistance payment for a maximum of 90 days provided the participant continues paying his portion of rent. If the participant is incarcerated, the seriousness of the charges resulting in incarceration will be examined to determine whether the participant will be allowed to remain on the program.

SHHP requires that information regarding the family absence from the unit be documented in the file. To confirm absence, SHHP may investigate the situation by taking action, including, but not limited to, the following:

1. Write letters to the family at the unit;
2. Telephone the family at the unit;
3. Interview neighbors;
4. Verify if utilities are in service; and
5. Check with the post office.

After a 60-day absence, SHHP will no longer make a payment on the empty unit unless a 30-day extension is granted due to a reasonable accommodation. Extensions in increments of 30 days may be requested and approved by SHHP. However, the family may not be absent from the unit for a period of more than a total of 90 consecutive calendar days under any circumstances.

If SHHP has continued paying the HAP amount in a participant's absence for the maximum 90 days and the family remains out of the unit, the subsidy will be terminated following HUD regulations and the participant will be notified of their right to an informal hearing.

Absent Head, Spouse, or Co-head

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

Household Members Permanently Confined for Medical Reasons

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

- SHHP will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family

may present evidence that the household member is confined on a permanent basis and request that the person not be considered a household member.

- When an individual who has been counted as a household member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualify as an elderly person or a person with disabilities.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the household, if they live with the applicant or participant family 51 percent or more of the time.

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

Visitors/Unauthorized Adults in Unit

Any adult not included on HUD Form 50058 who has been in the unit more than 14 consecutive days or the authorized visitor days per the lease, whichever is less, without SHHP 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.

Absence of evidence of any other address may be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

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

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 150 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 186 days per year, the minor will be considered to be an eligible visitor and not a household member.

Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving S+C assistance, SHHP will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a household member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a household member unless information is provided that would confirm that the caretaker's role is temporary. In such cases SHHP will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the Shelter Plus Care will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

HUD allows PHAs to use pay-stubs to project income once UIV data has been received in such cases where the family does not dispute the UIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

- When the tenant provided documents are pay stubs, the PHA will make every effort to obtain at least 4 consecutive pay stubs dated within the last 60 days.

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

- If UIV data is not available,

- If the family disputes the accuracy of the UIV employer data, and/or
- If the PHA determines additional information is needed.

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

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

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

Known Changes in Income

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

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 the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

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

UIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

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

- For persons who regularly receive bonuses or commissions, SHHP will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, SHHP will use the prior year amounts. In either case the family may provide, and SHHP 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, SHHP will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

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

This type of income (including gifts) is not included in annual income.

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

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

State and Local Employment Training Programs

Incremental earnings and benefits to any household member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a household 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 household member participates in the training program [24 CFR 5.609(c)(8)(v)].

- SHHP defines training program as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].
- SHHP defines incremental earnings and benefits as the difference between: (1) the total amount of welfare assistance and earnings of a household member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the household member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].
- In calculating the incremental difference, SHHP will use as the pre-enrollment income the total annualized amount of the household member’s welfare assistance and earnings reported on the household’s most recently completed HUD-50058.
- End of participation in a training program must be reported in accordance with SHHP's interim reporting requirements.

HUD-Funded Training Programs

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

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

Earned Income Tax Credit

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

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

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

Business Expenses

Net income is gross income less business expense.

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

Business Expansion

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

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

Capital Indebtedness

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

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

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

Co-owned Businesses

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

6-I.F. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

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

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net household assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

General Policies

Income from Assets

SHHP 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 SHHP 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) SHHP believes that past income is the best indicator of anticipated income. For example, if a household member owns real property that typically receives rental income but the property is currently vacant, SHHP 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 SHHP to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

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

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.
- Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

Lump-Sum Receipts

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

Imputing Income from Assets [24 CFR 5.609(b)(3)]

When net household assets are \$5,000 or less, SHHP will include in annual income the actual income anticipated to be derived from the assets. When the family has net household assets in excess of \$5,000, SHHP will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all household assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the household has access."

- If an asset is owned by more than one person and any household member has unrestricted access to the asset, SHHP will count the full value of the asset. A household member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
- If an asset is owned by more than one person, including a household member, but the household member does not have unrestricted access to the asset, SHHP will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, SHHP will prorate the asset evenly among all owners.

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

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

Minimum Threshold

- SHHP will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.
- When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual reexaminations, the family may request an interim recertification to eliminate consideration of the asset(s).

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

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

- All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a household member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

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

Family Declaration

Participants must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

- SHHP may verify the value of the assets disposed of if other information available to SHHP does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

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

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

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by

deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

- In determining the market value of an investment account, SHHP will use the value of the account on the most recent investment report.
- How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), SHHP will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

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

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

- Equity in real property when a household member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation

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

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

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

Trusts

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

Revocable Trusts

If any member of a household has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a household, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump sum receipts are discussed earlier in this section.)

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, SHHP must know whether the money is accessible before retirement.

While a household member is employed, only the amount the household member can withdraw without retiring or terminating employment is counted as an asset.

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

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

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

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

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

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

Life Insurance

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

6-I.G. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

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

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

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

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]
 - SHHP will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled household member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.H. PAYMENTS IN LIEU OF EARNINGS

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

6-I.I. WELFARE ASSISTANCE

Overview

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

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

SHHP must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided

as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving S+C assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the household 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, SHHP must include in annual income “imputed” welfare income. SHHP must request that the welfare agency inform SHHP when the benefits of an S+C participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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 household member is unable to find employment even though the household member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a household member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

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

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

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

Alimony and Child Support

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

- SHHP will count court-awarded amounts for alimony and child support unless SHHP verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].
- Households who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

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

- Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any household member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.
- Non-monetary contributions will be valued at the cost of purchasing the items, as determined by SHHP. For contributions that may vary from month to month (e.g., utility payments), SHHP will include an average amount based upon past history.

6-I.K. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

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

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

- Any student financial assistance is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending.

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]

- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
 - (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
 - (h) 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)
 - (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
 - (j) 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-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
 - (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
 - (l) 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)
 - (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
 - (n) 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)

- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (q) 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)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

- Generally, SHHP will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), SHHP will estimate costs based on historic data and known future costs.
- If a family has an accumulated debt for medical or disability assistance expenses, SHHP will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. SHHP may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

1. The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	
Surgery and medical procedures that are necessary, legal, noncosmetic	Ambulance services and some costs of transportation related to medical expenses
Services of medical facilities	
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin	
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Cost and continuing care of necessary service animals
Substance abuse treatment programs	
Psychiatric treatment	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

SHHP Policy on Calculating Medical Expenses

All participants will be encouraged to keep copies, records and/or receipts **illustrating proof of payment** for all unreimbursed out of pocket medical expenses since his/her last annual reexamination. During the reexamination interview/meeting, the residential coordinator will review the out of pocket medical expenses and determine which of the following calculation methods will best reflect anticipated medical expenses for the upcoming reexamination period.

1. SHHP will use current circumstances to anticipate medical expenses whenever possible. This is done by looking at **the average costs** of the last 4-months of expenses to determine if this is a true reflection and can be used to anticipate future out of pocket medical expenses. Once it is determined that the last 4 months is the best projector of future expenses, this **4 month average amount** will be multiplied by 3 to get an annual figure. Or
2. For costs that are expected to fluctuate during the year, SHHP will estimate costs based on historic data. For these situations, the unreimbursed out of pocket medical expenses will be calculated using the actual expenses within the last 12 months.

Households That Qualify for Both Medical and Disability Assistance Expenses

1. This policy applies only to households in which the head, spouse, or co-head is 62 or older or is a person with disabilities.
2. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, SHHP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)]. The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

- The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, SHHP will consider

factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

- When SHHP determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

- Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

- Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.
- Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.
- If the care attendant also provides other services to the family, SHHP will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

- SHHP determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, SHHP will collect information from organizations that provide services and support to persons with disabilities. A family may present, and SHHP will consider, the family's justification for costs that exceed typical costs in the area.

Households That Qualify for Both Medical and Disability Assistance Expenses

- This policy applies only to households in which the head or spouse is 62 or older or is a person with disabilities.
- When expenses anticipated by a family could be defined as either medical or disability assistance expenses, SHHP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

Home Care Allowance

Homecare allowance funds will be excluded from income. These funds will be classified as; *amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.*

If the family contracts out to a separate entity outside of the home the calculation will be handled as follows:

- List the Home Care Allowance amount as income on the 50058 for the tenant receiving the benefit and then exclude the full amount.

If the family is paying the Home Care Allowance to a family member residing in the unit, the calculation will be handled as follows:

- List the Home Care Allowance amount for the tenant receiving the income on the 50058 then exclude the full amount.
- List the Home Care Allowance as income for the individual in the family who is providing the service. This income will be counted when calculating the rent amount for the family.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family’s household, are included when determining the family’s childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

- The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).
- In evaluating the family’s request, SHHP 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 SHHP.

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 5.603(b)].

SHHP 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 [HCV GB, p. 5-30].

- 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, SHHP 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. SHHP 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 child care [VG, p. 26].

Allowable Child Care Activities

- For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.
- The costs of general housekeeping and personal services are not eligible. Likewise, 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.
- If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, SHHP will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

- Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.
- To establish the reasonableness of childcare costs, SHHP will use the schedule of childcare costs from the local welfare agency. Households may present, and SHHP will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- The minimum rent between 0-\$50 set by the PHA.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP.

Welfare Rent [24 CFR 5.628]

- Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

- The SHHP S+C Program does not have a minimum rent.

Family Share [24 CFR 982.305(a)(5)]

The income used for this determination must have been verified no earlier than 60 days before the family's RAD was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]

SHHP will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

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

6-III.B. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

SHHP-established utility allowance schedule is used in determining family share and PHA subsidy. SHHP must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the RAD unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on SHHP's subsidy standards. For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

S+C program regulations require SHHP to approve a utility allowance amount higher than shown on SHHP's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, SHHP will approve an allowance for air-conditioning, even if SHHP has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide SHHP with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, SHHP must use SHHP current utility allowance schedule [24 CFR 982.517(d)(2)].

- Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.C. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. SHHP must prorate the assistance provided to a mixed family. SHHP 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 SHHP subsidy for a family is calculated at \$500 and two of four family members are ineligible, SHHP subsidy would be reduced to \$250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) Annual income means all amounts, monetary or not, which:

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

(b) Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

¹ Text of 45 CFR 260.31 follows.

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
- (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for SHHP or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of SHHP's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment-training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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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) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first \$2000 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 \$2000 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);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older

Americans Act of 1985 (42 U.S.C. 3056(f));

k) 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-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) 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);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) 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);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) 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); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

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

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) At expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) Because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) Because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to SHHP by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of SHHP, the welfare agency will inform SHHP in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform SHHP of any subsequent changes in the term or amount of such specified welfare benefit reduction. SHHP will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at SHHP's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to SHHP by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) SHHP may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that SHHP has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if SHHP denies the family's request to modify such amount, SHHP shall give the tenant written notice of such denial, with a brief explanation of the basis for SHHP determination of the amount of imputed welfare income. SHHP notice shall also state that if the tenant does not agree with SHHP determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review SHHP determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on SHHP determination.

(2) S+C participant. A participant in the S+C tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review SHHP determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if SHHP denies the family's request to modify such amount, SHHP shall give the family written notice of such denial, with a brief explanation of the basis for SHHP determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with SHHP determination, the family may request an informal hearing on the determination under SHHP hearing procedure.

(e) PHA relation with welfare agency.

(1) SHHP must ask welfare agencies to inform SHHP of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives SHHP written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) SHHP is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to SHHP. However, SHHP is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. SHHP shall be entitled to rely on the welfare agency notice to SHHP of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

INTRODUCTION

SHHP must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. SHHP must not pass on the cost of verification to the family.

SHHP will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of SHHP.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that SHHP or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and SHHP may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, SHHP will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes SHHP to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires SHHP to use the most reliable form of verification that is available and to document the reasons when SHHP uses a lesser form of verification.

- In order of priority, the forms of verification that SHHP will use are:
 - Up-front Income Verification (UIV) whenever available
 - Third-party Written Verification
 - Third-party Oral Verification
 - Review of Documents
 - Self-Certification/Declaration

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

- Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the interview or 120 calendar days of the effective date of the action. The documents used for verification for new admission must be dated within 60 calendar days of the effective date of the action. The documents must not be damaged, altered or in any way illegible.
- SHHP will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, SHHP would accept the most recent report.
- Printouts from web pages are considered original documents.
- SHHP staff or the local service provider staff who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.
- Any family self-certifications must be made in a format acceptable to SHHP and must be signed in the presence of SHHP representative or local provider agency staff whenever possible.

File Documentation

SHHP must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that SHHP has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

- SHHP will document, in the family file, the following:
 - Reported family annual income
 - Value of assets
 - Expenses related to deductions from annual income
 - Other factors influencing the adjusted income or income-based rent determination

When SHHP is unable to obtain 3rd party verification, SHHP will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to SHHP's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to SHHP.

- SHHP will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:
 - The Colorado Department of Labor and Employment System
 - The Colorado Benefits Management System
 - The Family Support Registry
 - The Work Number

SHHP must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until SHHP 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 SHHP.

Definition of Substantial Difference

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference. SHHP will therefore use \$200 per month as the threshold for a substantial difference.

See Chapter 6 for SHHP's policy on the use of UIV to project annual income and for SHHP's threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the UIV source and the family, SHHP must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

Tenant Income Data (TID) Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

- SHHP will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.
- TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.
- TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.
- TID reports will be retained in participant files with the applicable annual or interim reexamination documents.
- When SHHP determines through TID reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires SHHP to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

- SHHP and/or the local service provider will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.
- SHHP and/or the local service provider may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. SHHP will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, SHHP will request third-party oral verification.
- SHHP and/or the local service provider will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the

source will be documented in the file. Regarding third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

- If a third party agrees to confirm in writing the information provided orally, SHHP and/or the local service provider will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, SHHP will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, SHHP will use the information from documents on a provisional basis. If SHHP later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, SHHP will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of SHHP's interim reexamination policy.

When Third-Party Verification is Not Required

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

SHHP will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

SHHP will determine that third-party verification is not necessary if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

- SHHP will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

SHHP will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, SHHP will rely upon review of documents when SHHP determines that a third party's privacy rules prohibit the source from disclosing information.

- SHHP will also determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

- SHHP will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]
- The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

- If SHHP has determined that third-party verification is not available or not required, SHHP will use documents provided by the family as verification.
- SHHP may also review documents when necessary to help clarify information provided by third parties. In such cases SHHP will document in the file how SHHP arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

- When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to SHHP.
- SHHP may require a family to certify that a family member does not receive a particular type of income or benefit.
- The self-certification must be made in a format acceptable to SHHP and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a SHHP representative or PHA notary public whenever possible.

Part II: Verifying FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

SHHP will require families to furnish verification of legal identity for each household member.

All applicants and participants in SHHP’s programs must meet the requirements of Colorado HB 06-1023 by presenting one of the following documents:

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
<ol style="list-style-type: none"> 1. Valid Colorado Driver’s License or ID card. 2. A valid photo identification document issued by the Bureau of Indian Affairs. 3. A military identification card or common access card issued by the US Dept. of Defense. 4. Valid driver’s license from one of the authorized identified US states. 5. An approved waiver through the Division of Motor Vehicles. <p align="center">Additional Program Requirement: Birth Certificate</p>	<ol style="list-style-type: none"> 1. Certificate of birth 2. Adoption papers 3. Custody agreement 4. Health and Human Services ID 5. School records <p align="center">Additional Program Requirement: Birth Certificate</p>

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

Legal identity will be verified at admission to the program and on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216]

Every family member must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

- o SHHP will also accept the following documents as evidence if the SSN is provided on the document:
- o Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- o Benefit award letters from government agencies; retirement benefit letters; Life insurance policies
- o Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, SHHP will require a self-certification stating that documentation of the SSN cannot be provided at this time. SHHP will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

- SHHP will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.
- For individuals who are at least 62 years of age and/or who are individuals with disabilities are unable to submit the required documentation of their SSN within the initial 60-day period, SHHP will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously assisted occupancy. If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

- If an official record of birth or evidence of social security retirement benefits cannot be provided, SHHP will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

- Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Certification by the head of household is normally sufficient verification. If SHHP has reasonable doubts about a marital relationship, SHHP will require the family to document the marriage.

- A marriage certificate generally is required to verify that a couple is married.
- In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

Certification by the head of household is normally sufficient verification. If SHHP has reasonable doubts about a separation or divorce, SHHP will require the family to document the divorce, or separation.

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family may be required to provide evidence to support that the person is no longer a member of the household within 10 business days of the request (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

- SHHP requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:
 - The family reports full-time student status for an adult other than the head, spouse, or co-head.
 - The family reports child care expenses to enable a family member to further his or her education.
 - The family includes a student enrolled in an institution of higher education.

7-II.F. DOCUMENTATION OF DISABILITY

SHHP must verify the existence of a disability in order to allow certain income disallowances and deductions from income. SHHP is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. SHHP may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If SHHP receives a verification document that provides such information, SHHP will not place this information in the tenant file. Under no circumstances will SHHP request a participant's medical record(s). For more information on health care privacy laws, see the U.S. Department of Health and Human Services' website at www.us.dhhs.gov.

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

- SHHP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), SHHP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to SHHP.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

- For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See Chapter 3 for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in Chapter 3. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

All applicants and participants in SHHP's programs must meet the requirements of Colorado HB 06-1023 by presenting one of the following documents:

1. Valid Colorado Driver's License or ID card.
2. A valid photo identification document issued by the U.S. Bureau of Indian Affairs.
3. A military identification card or common access card issued by the U.S. Dept. of Defense.
4. Valid driver's license from one of the authorized states.
5. An approved waiver through the Division of Motor Vehicles.

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

PHA Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required under HUD regulations. These individuals will need to still comply with Colorado HB 06-1023.

For family members under the age of 62 who claim to be eligible immigrants, SHHP must verify immigration status with the United States Citizenship and Immigration Services (USCIS). SHHP will follow all USCIS protocols for verification of eligible immigration status.

PART III: Verifying Income and Assets

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

- Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
 - If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

SHHP will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination SHHP may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

Applicants:

To verify the SS/SSI benefits of applicants, SHHP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), SHHP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter they will be required to provide it to SHHP.

Participants:

To verify the SS/SSI benefits of participants, SHHP will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) SHHP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter they will be required to provide it to SHHP.

7-III.D. ALIMONY OR CHILD SUPPORT

The way SHHP will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order.

1. If payments are made through a state or local entity, SHHP will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
2. Third-party verification from the person paying the support.
3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
4. Copy of the latest check and/or payment stubs.
 - o Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

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. SHHP needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

- SHHP will verify the value of assets disposed of only if:
- SHHP does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and SHHP verified this amount. Now the person reports that she

has given this \$10,000 to her son. SHHP has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, SHHP will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

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, SHHP will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original documents that will be accepted depends upon the family member's retirement status.

- *Before* retirement, SHHP will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, SHHP will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, SHHP will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

SHHP must obtain verification for income exclusions only if, without verification, SHHP would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, SHHP will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims

the earned income disallowance for a source of income, both the source and the income must be verified.

- SHHP will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, SHHP will report the amount to be excluded as indicated on documents provided by the family.
-

7-III.I. ZERO INCOME STATUS

SHHP will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

- Any individual who is 18-years old and claiming zero income will be required to complete a Zero Income Reporting Form monthly. This form must be submitted to SHHP and/or the local service providing agency monthly.

7-III.J. STUDENT FINANCIAL ASSISTANCE

For students who are seeking or receiving S+C assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. Excluded amounts are verified only if, without verification, SHHP would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

- SHHP will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.
- In addition, SHHP will request written verification from the institution of higher education regarding the student's tuition amount.
- If SHHP is unable to obtain third-party written verification of the requested information, SHHP will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving S+C assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

- If SHHP is required to determine the income eligibility of a student's parents, SHHP will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). SHHP will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The parents will be required to submit the information directly to SHHP. The required information must be submitted (postmarked) within 10 business days of the date of SHHP's request or within any extended timeframe approved by SHHP.
- SHHP reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that SHHP verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. SHHP must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. SHHP must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

SHHP and/or the local service provider will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case SHHP will make a best effort to determine what expenses from the past are likely to continue to occur in the future. SHHP will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, SHHP 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.
- Over the Counter Medical Supplies

In order for SHHP to deduct over the counter medical supplies we must verify that a physician has declared them medically necessary. This verification can be through a valid prescription dated within 365-days or some other form of third party verification from the physician.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. SHHP must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for SHHP's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

- The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, SHHP will verify:

1. The anticipated repayment schedule
2. The amounts paid in the past, and
3. Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

SHHP will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, SHHP must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. SHHP will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

SHHP must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

- SHHP will seek third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant

care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

- If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

- An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.
- The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, SHHP must verify that:

1. The child is eligible for care.
2. The costs claimed are not reimbursed.
3. The costs enable a family member to pursue an eligible activity.
4. The costs are for an allowable type of childcare.
5. 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. SHHP will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

- The childcare provider will be asked to certify that, to the best of the provider's knowledge, the childcare expenses are not paid by or reimbursed to the family from any source.
- The family will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

SHHP must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

- SHHP 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 SHHP will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases SHHP will request verification from the agency of the member's job seeking efforts to date and require the family to submit to SHHP any reports provided to the other agency.
- In the event third-party verification is not available, SHHP will provide the family with a form on which the family member must record job search efforts. SHHP will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

- SHHP will ask that the academic or vocational educational institution 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.

Gainful Employment

- SHHP will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

- SHHP will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).
- SHHP will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

- SHHP will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

- The actual costs the family incurs will be compared with SHHP'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, SHHP will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: EXCERPT FROM HUD VERIFICATION GUIDANCE
NOTICE (PIH 2004-01, pp. 11-14)**

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium-Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				
<p>Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.</p> <p>Effective Date of Employment: The PHA should always confirm start and termination dates of employment.</p>					

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not available.
<p>Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.</p>					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person. Use of HUD systems, when available.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	Note: The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. Notarized statement should include a perjury penalty statement.
Note: The PHA must not pass verification costs along to the participant.					
Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					

**EXHIBIT 7-2: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NON-CITIZENS [HCV GB, pp. 5-9 and 5-10]**

- All non-citizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to SHHP.
- Except for persons 62 or older, all non-citizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Non-citizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Non-citizens

- Non-citizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
 - “Admitted as a Refugee Pursuant to Section 207”
 - “Section 208” or “Asylum”
 - “Section 243(h)” or “Deportation stayed by Attorney General”
 - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

- Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by households receiving Shelter Plus Care (S+C) assistance meet HUD's Housing Quality Standards (HQS) and permits SHHP to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires PHAs to determine that units rented by households assisted under the S+C program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by S+C-assisted households and identifies decisions about the acceptability of the unit that may be made by the participant based upon the participant's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections SHHP will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies SHHP will use to make rent reasonableness determinations.

Special HQS requirements for manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for S+C-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires SHHP to enforce minimum HQS but also requires that certain judgments about acceptability be left to the participant. For example, SHHP must ensure that the unit contains the required sanitary facilities, but the participant decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a household that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the household'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 participant to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

SHHP may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participants or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if SHHP additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

SHHP must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

- The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

As permitted by HUD, SHHP has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Severely damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must not present a cutting hazard (applies only if screens are present).

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

Floors

Any loose or warped boards that present a tripping hazard must be resecured and made level. If they cannot be leveled, they must be replaced.

Toilets

All severely 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 emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the participant is instructed on the use of the quick release system.

8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires SHHP to define life-threatening conditions and to notify the owner or the participant (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

- The following are considered life threatening conditions:
 - Any condition that jeopardizes the security of the unit
 - Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
 - Natural or LP gas or fuel oil leaks
 - Any electrical problem or condition that could result in shock or fire
 - Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
 - Utilities not in service, including no running hot water
 - Conditions that present the imminent possibility of injury
 - Absence of a functioning toilet in the unit

If an owner fails to correct life threatening conditions as required by SHHP, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a participant fails to correct a family caused life-threatening condition as required by SHHP, SHHP may terminate the participant's assistance. See 8-II.H.

8-I.D. OWNER AND PARTICIPANT RESPONSIBILITIES [24 CFR 982.404]

Participant Responsibilities

The participant is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain participant-supplied appliances
- Excessive garbage and debris and/or housekeeping issues

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a participant responsibility above, even if the violation is caused by the participant family's living habits (e.g., vermin infestation). However, if the participant family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the participant.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If SHHP is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an S+C-assisted unit has been identified as having an environmental intervention blood lead level, SHHP must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from SHHP, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and SHHP will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If SHHP determines that a unit does not meet the HQS space standards because of an increase in household size or a change in household composition, SHHP must issue the participant a new RAD, and the participant and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the participant, SHHP must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

SHHP conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* SHHP conducts initial inspections in response to a request from the participant to approve a unit for participation in the S+C program. The unit must pass the HQS inspection before the effective date of the HAP Contract.
- *Annual Inspections.* HUD requires SHHP to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the participant's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the participant, 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 reinspected by a supervisor or other qualified individual to ensure that all inspectors are enforcing HQS correctly and uniformly.

Inspection Costs

SHHP may not charge the participant or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, SHHP may compensate the independent agency from ongoing administrative fee for inspections performed. SHHP and the independent agency may not charge the participant any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The participant must allow SHHP to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

- Both the participant and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally inspections will be conducted on business days only. In the case of a life threatening emergency, SHHP will give as much notice as possible, given the nature of the emergency.

Owner and Participant Inspection Attendance

HUD permits SHHP to set policy regarding participant and owner presence at the time of inspection [HCV GB p. 10-27].

When a participant occupies the unit at the time of inspection an adult household member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, SHHP will inspect the unit in the presence of the owner or owner's representative whenever possible. The presence of a household representative is also preferred, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Timing of Initial Inspections

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with more than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the participant of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA) to the extent practicable. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

- To the extent practical, SHHP will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the participant of the determination within 15 days of submission of the Request for Tenancy Approval (RFTA).
- In cases where the PHA is not able to complete the inspection within 15-days, the file will be documented as to the reason it was not practical.

Inspection Results and Re-inspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them (24-hours or 30-days). If requested by the owner, the time frame for correcting the deficiencies may be extended by SHHP for good cause. SHHP will re-inspect the unit within 5 business days of the date the owner notifies SHHP that the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, SHHP will notify the owner and the participant that the unit has been rejected and that the participant must search for another unit. SHHP may agree to conduct a second reinspection, for good cause, at the request of the participant and owner.

Following a failed reinspection, the participant may submit a new Request for Tenancy Approval for the unit if the participant has not found another unit by the time the owner completes all repairs and the participant continues to wish to live in the 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 participant will be responsible for paying.

- If utility service is not available for testing at the time of the initial inspection, SHHP will allow the utilities to be placed in service after the unit has met all other HQS

requirements. SHHP will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by SHHP.

Appliances

- If the participant is responsible for supplying the stove and/or refrigerator, SHHP will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by SHHP. SHHP will execute the HAP contract based upon a certification from the participant that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

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8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have an annual inspection no more than 12 months after the most recent inspection.

- If an adult household member cannot be present on the scheduled date, the participant should request that SHHP reschedule the inspection. SHHP and participant will agree on a new inspection date that generally should take place within 5 business days of the originally scheduled date. SHHP may schedule an inspection more than 5 business days after the original date for good cause.
- If the participant misses the first scheduled appointment without requesting a new inspection date, SHHP will automatically schedule a second inspection. If the participant misses two scheduled inspections without PHA approval, SHHP will consider the participant to have violated its obligation to make the unit available for inspection. This may result in termination of the participant's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

SHHP will conduct a special inspection if the owner, participant, or another source reports HQS violations in the unit.

- Special inspections will occur within 10-days of receipt of the written request for a special inspection.
- During a special inspection, SHHP generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled SHHP may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

A SHHP supervisor or other qualified person will conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS. The units inspected will include both HCV and S+C units

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample may include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the participant will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, SHHP will determine (1) whether or not the failure is a life threatening condition and (2) whether the participant or owner is responsible.

- When life-threatening conditions are identified, SHHP will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of SHHP's notice.
- When failures that are not life threatening are identified, SHHP will send the owner and the participant a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally not more than 30 days will be allowed for the correction.
 - The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-II.G.). Likewise, in the case of participant caused deficiencies, the notice will inform the participant that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the participant's assistance will be terminated in accordance with PHA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, SHHP cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, SHHP may grant an exception to the required time frames for correcting the violation, if SHHP determines that an extension is appropriate [24 CFR 982.404].

- Extensions will be granted in cases where SHHP has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the participant's family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, Extensions may be granted for 30-days at a time but will not exceed 60 days total, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

- SHHP will conduct a re-inspection immediately following the end of the corrective period, or any PHA approved extension.
- The participant and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of abatement, SHHP will send a notice of HAP contract termination to the owner and tenant, in accordance with PHA policies. If SHHP is unable to gain entry to the unit in order to conduct the scheduled re-inspection, SHHP will consider the participant to have violated its obligation to make the unit available for inspection. This may result in termination of the participant's assistance in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, SHHP must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by SHHP, HUD requires SHHP to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the participant's responsibility.

- SHHP will make all HAP abatements effective the first of the month following the expiration of SHHP specified correction period (including any extension).
- SHHP will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the participant continues to be responsible for its share of the rent. The owner must not seek payment from the participant for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

SHHP must decide how long any abatement period will continue before the HAP contract will be terminated. SHHP should not terminate the contract until the participant finds another unit, provided the participant does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. SHHP will issue a RAD to permit the participant to move to another unit as described in Chapter 10.

- The maximum length of time that a HAP may be abated is 30 days. However, if the owner completes corrections and notifies SHHP before the termination date of the HAP contract, SHHP may rescind the termination notice if (1) the participant still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.
 - Reasonable notice of HAP contract termination by SHHP is 30 days.

8-II.H. ENFORCING PARTICIPANT COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Participants are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the participant fails to correct a violation within the period allowed by SHHP (and any extensions), SHHP will terminate the participant's assistance, according to the policies described in Chapter 12.

- If the owner carries out a repair for which the participant is responsible under the lease, the owner may bill the participant for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until SHHP 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 S+C 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.

PHA-owned Units [24 CFR 982.352(b)]

SHHP does not have any PHA owned units.

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

SHHP must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and participant first negotiate the rent for a unit. SHHP (or independent agency in the case of PHA-owned units) will assist the participant with the negotiations upon request. At initial occupancy SHHP must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the participant. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

- After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, SHHP may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises SHHP will consider unit size and length of tenancy in the other units.
- SHHP will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.
 - All rents adjustments will be effective the first of the month following 60 days after SHHP's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires SHHP to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 percent decrease in the Fair Market Rent that goes into effect

at least 60 days before the contract anniversary date. HUD also may direct SHHP to make a determination at any other time. SHHP may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, SHHP will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) SHHP determines that the initial rent reasonableness determination was in error or (2) SHHP determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. SHHP may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the S+C-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

- Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 tenant-based assistance;
- Section 8 project-based assistance;
- Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects;
- HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized;
- Units subsidized through federal, state, or local tax credits;
- Units subsidized by the Department of Agriculture rural housing programs; and
- Units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting SHHP payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give SHHP information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

- SHHP will collect and maintain data on market rents in SHHP's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources.

How Rents are Determined

SHHP 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. SHHP will not approve a lease until SHHP determines that the initial rent to owner is a reasonable rent.

SHHP must re-determine the reasonable rent:

1. Before any increase in the rent to owner;
2. If there is a 5 percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the participant) as compared with the FMR in effect one year before the contract anniversary;
3. If directed by HUD; and
4. Based on a need identified by SHHP's auditing system.

SHHP 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 SHHP.

The owner will be advised that by accepting each monthly housing assistance payment he or she is 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 SHHP 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 market surveys.

The market areas for rent reasonableness are census tracts/neighborhoods within SHHP's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

SHHP bases its rent reasonableness determinations on the following:

1. The state, city, real estate agents, or banks;
2. Classified ads, multiple listings, etc.; and
3. Owner -provided rent rolls of comparable units, confirmed by SHHP.

SHHP shall take the following unit characteristics into account in making rent reasonable determinations:

1. Size (number of bedrooms/square footage);
2. Location;
3. Quality and condition of the unit;
4. Amenities (number of bathrooms, washer/dryers, on site services, etc.);
5. Housing services;
6. Age of unit;
7. Unit type;
8. Maintenance; and
9. Utilities.

Change in Rent [CFR 982.308(g)]

The owner is required to notify SHHP, 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 [24 CFR 982.507].

- SHHP will notify the owner of the rent SHHP can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. SHHP will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of SHHP's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the participant to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the participant. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by households with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective participants with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by SHHP
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each participant to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by SHHP). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the participant, the site, and the surrounding neighborhood must be free of hazards to the participant's family's health and safety.

<p style="text-align: center;">EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY</p>
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Note: This document provides an overview of unit and site characteristics and conditions for which the participant determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
 - HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the participant to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The participant may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
 - *Food Preparation and Refuse Disposal.* The participant selects size and type of equipment it finds acceptable. When the participant is responsible for supplying cooking appliances, the participant may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the participant.
 - *Space and Security.* The participant may determine the adequacy of room sizes and room locations. The participant is also responsible for deciding the acceptability of the type of door and window locks.
 - *Energy conservation items.* The participant may determine whether the amount of insulation, presence or absence of storm doors and windows and other energy conservation items are acceptable.
 - *Illumination and Electricity.* The participant may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- (6) *Structure and Materials.* Participants may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- (7) *Indoor Air.* Participants may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the participant's needs. However, if screens are present they must be in good condition.
- (8) *Sanitary Conditions.* The participant determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions.* Participants may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Participants have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the participant's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for SHHP to assist a participant in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, SHHP must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by SHHP and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by SHHP, with no conflicts of interest [24 CFR 982.306]
- The gross rent must not exceed the applicable Fair Market Rent (FMR) for the participant

PART I: LEASING POLICIES

9-I.A. TENANT SCREENING

SHHP has no liability or responsibility to the owner or other persons for the participant's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the participant to occupy the owner's unit. At or before PHA approval of the tenancy, SHHP must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. SHHP must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

SHHP's policy on providing information to the owner must be included in the participant's briefing packet [24 CFR 982.307(b)(3)].

- SHHP will not screen applicants for family behavior or suitability for tenancy.
- SHHP will not provide additional screening information to the owner.
- SHHP will not provide any additional information in its possession about the participant's tenancy.

9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the participant is issued a RAD, the participant must locate an eligible unit, with an owner or landlord willing to participate in the S+C program. Once a participant finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the participant must request SHHP to approve the assisted tenancy in the selected unit.

The owner and the participant must submit two documents to SHHP:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease

The RFTA contains important information about the rental unit selected by the participant, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for SHHP to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the household, unless SHHP has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the RAD. [HCV GB p.8-15].

- The RFTA must be signed by both the participant and the owner.

- The owner may submit the RFTA on behalf of the participant.
- Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, or by fax.
- The participant may not submit, and SHHP will not process, more than one (1) RFTA at a time.

When the participant submits the RFTA, SHHP will review the RFTA for completeness.

- If the RFTA is incomplete (including lack of signature by participant, owner, or both), or if the dwelling lease is not submitted with the RFTA, SHHP will notify the participant and the owner of the deficiencies.
- Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, or by fax. SHHP will not accept missing information over the phone.

When the participant submits the RFTA and proposed lease, SHHP will also review the terms of the RFTA for consistency with the terms of the proposed lease.

- If the terms of the RFTA are not consistent with the terms of the proposed lease, SHHP will notify the participant and the owner of the discrepancies.
- Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. Because of the time sensitive nature of the tenancy approval process, SHHP will attempt to communicate with the owner and participant by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

SHHP does not formally approve an owner to participate in the S+C program. However, there are a number of criteria where SHHP may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in HUD subsidy programs [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the S+C program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the S+C program. Generally, a RAD-holder must choose a unit that is no larger than the unit size allowed for on his/her RAD, the unit must be rent reasonable, and must pass HQS. The RAD-holder must lease up a unit in the jurisdiction of the local service agency that provides the supportive services for at least one year. At that time, the participant may request the opportunity to move to the jurisdiction of another local service provider who

Ineligible Units [24 CFR 982.352(a)]

SHHP may not assist a unit under the S+C program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal,

reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

Assisted Living Facilities

Any participant requesting to use their RAD in an assisted living facility will be issued a 1-bedroom RAD. The first step is to determine what is considered rent/room. The rent/room rate is determined by taking the total paid for room and board minus the food stamp allowance. On the 50058 the payment standard will be the 1-bedroom and the gross rent will be the rent/room rate calculated above.

- In order for an Assisted Living Facility to be approved, the participant must have his or her own bedroom. No Assisted Living Facilities where a participant is required to share a bedroom will be approved.
- When completing the Request for Tenancy Approval use the calculated rent/room rate in the proposed rent field.
- When completing the Rent Reasonableness Form, use the calculated rent/room rate as the monthly rental amount.

SHHP will also approve leases for the following housing types:

1. Single-family dwellings
2. Apartments
3. Manufactured housing
4. Manufactured home space rentals
5. Lease-purchase agreements

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, SHHP to permit participants to use S+C assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing and cooperative housing. See Chapter 15 for specific information and policies on any of these housing types that SHHP has chosen to allow.

The regulations do require SHHP to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

See Chapter 15 for specific information and policies on any of these housing types that SHHP has chosen to allow.

The regulations do require SHHP to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A participant may not receive the benefit of S+C tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the household, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition [see Chapter 8 for more details]. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A participant must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the RAD issued to the participant, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The participant will only be allowed to lease a dwelling unit with the same number of bedrooms

stated on the RAD issued to the participant as long as it meets affordability requirements. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent [see chapter 8 for more details]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

9-I.E. LEASE AND TENANCY ADDENDUM

The participant and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant and the owner; SHHP is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308, S+C HAP Contract]

SHHP does not require that owners use a standard lease. In stead, the Tenancy Addendum that is part of the HAP contract becomes part of the lease. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by SHHP. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the participant

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one month and must be renewable upon expiration [24 CFR 582.315(a)]. The initial lease term is also stated in the HAP contract.

- The HUD program regulations permit SHHP to approve a shorter initial lease term if certain

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

Security Deposit [24 CFR 582.105 (a)]

All participants are expected to pay the full security deposit requested from the landlord. It is also anticipated that each program participant will make every effort to obtain the required security deposit funds. Participants will be encouraged to access community resources for deposit assistance. If the participant is unable to locate security deposit funds after requesting them from community resources, they may make a one-time request from SHHP. SHHP will only pay for **ONE** security deposit during the course of program participation per tenant not to exceed one month's rent as program funds allow. SHHP will, at its discretion pay an additional security deposit if the original security deposit is returned to SHHP at the conclusion of the participant's residency with a landlord. When SHHP pays the deposit, the agency must make arrangements with the landlord for the return of the deposit to SHHP when the tenancy ends.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the participant in excess of the rent to the owner minus SHHP's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

- SHHP permits owners and participants to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.
- Any items, appliances, or other services that are customarily provided to unassisted households as part of the dwelling lease with those households, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted participant (such as air conditioning, dishwasher or garage). These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and participant. Side payments for additional rent, or for items, appliances or services customarily provided (such as air conditioning, dishwasher or garage) to unassisted households as part of the dwelling lease for those households, are prohibited.
- Any items, appliances, or other services that are not customarily provided to unassisted households as part of the dwelling lease with those households, are not permanently installed in the dwelling unit and where the participant has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the participant.
- The participant is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the participant. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the participant cannot be a

cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

- Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.
- For single-family houses, SHHP will not accept separate agreements for additional charges for garages, basements, or other structures or amenities located on the property.
- If the participant 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 SHHP. If agreements are entered into at a later date, they must be approved by SHHP and attached to the lease.
- Separate agreements for optional additional charges will not be used in the calculation of a tenant's affordability limit, but may be used in the calculation of reasonable rent for the property.

PHA Review of Lease

SHHP will review the dwelling lease for compliance with all applicable requirements.

- If the dwelling lease is incomplete or incorrect, SHHP will notify the participant and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax.
- Because the initial leasing process is time-sensitive, SHHP will attempt to communicate with the owner and participant by phone, fax, or email. SHHP will use mail when the parties can't be reached by phone, fax, or email.

SHHP will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the participant's Request for Tenancy Approval, with proposed dwelling lease, SHHP must promptly notify the participant and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, SHHP must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include:

- Ensuring that the unit is eligible;
- The unit has been inspected by SHHP and meets the Housing Quality Standards (HQS);
- The lease offered by the owner is approvable and includes the required Tenancy Addendum;

- The rent to be charged by the owner for the unit must be reasonable;
- The owner is an eligible owner, not disapproved by SHHP, with no conflicts of interest [24 CFR 982.306];
- The participant and the owner have executed the lease, including the Tenancy Addendum; and
- The lead-based paint disclosure information [24 CFR 982.305(b)].

SHHP will complete its determination within 10 business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with SHHP, SHHP will obtain corrected copies of the RFTA and proposed lease, signed by the participant and the owner.

- Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. SHHP will not accept corrections over the phone.

If SHHP determines that the tenancy cannot be approved for any reason, the owner and the participant will be notified and given the opportunity to address any reasons for disapproval. SHHP will instruct the owner and participant of the steps that are necessary to approve the tenancy.

- Where the tenancy is not approvable because the unit is not approvable, the participant must continue to search for eligible housing within the timeframe of the issued RAD.
- If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), SHHP will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the participant must continue to search for eligible housing within the timeframe of the issued RAD.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between SHHP and the owner of the dwelling unit occupied by a S+C assisted participant. Under the HAP contract, SHHP agrees to make housing assistance payments to the owner on behalf of a specific participant occupying a specific unit and obliges the owner to comply with all program requirements.

HUD prescribes the HAP contract format [S+C HAP Contract].

If SHHP has given approval for the participant of the assisted tenancy, the owner and SHHP execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

SHHP is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

SHHP must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

SHHP may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, SHHP will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and SHHP may not pay any housing assistance payment to the owner.

The owner and the assisted participant will execute the dwelling lease and the owner must provide a copy to SHHP. SHHP will ensure that both the owner and the assisted participant receive copies of the dwelling lease.

The owner and SHHP will execute the HAP contract. SHHP will not execute the HAP contract until the owner has submitted IRS form W-9. SHHP will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give SHHP a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless SHHP has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The participant moves to a new unit, even if the unit is in the same building or complex

In these cases, if the S+C assistance is to continue, the participant must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify SHHP of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. SHHP will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the participant notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

- Where the owner is requesting a rent increase, SHHP will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner.
- Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies SHHP of the rent change or on the date specified by the owner, whichever is later.

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Chapter 10

MOVING WITH CONTINUED ASSISTANCE

INTRODUCTION

Freedom of choice is a hallmark of the Shelter Plus Care (S+C) program. In general, a participant may move to any eligible unit in the jurisdiction of the local service agency that provides services to the participant. The participant may request the opportunity to move to an area served by another local service provider that participates in the SHHP S+C program. SHHP will make every effort to honor this request. This chapter sets forth HUD regulations and PHA policies governing moves within SHHP's jurisdiction. Along with covering the general rules that apply to all moves by a participant assisted under SHHP's S+C program.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted participant is allowed to move to a new unit with continued assistance.

- The participant has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the participant terminates the lease on notice to the owner, the participant must give SHHP a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The Violence Against Women Reauthorization Act of 2005 provides that "a family may receive a RAD from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the S+C program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"
[Pub.L. 109-162]
- The lease for the participant's unit has been terminated by mutual agreement of the owner and the participant [24 CFR 982.314(b)(1)(ii)].
 - If the participant and the owner mutually agree to terminate the lease for the participant's unit, the participant must give SHHP a copy of the termination agreement.
- The owner has given the participant a notice to vacate, has commenced an action to evict the participant, or has obtained a court judgment or other process allowing the owner to evict the participant [24 CFR 982.314(b)(2)]. The participant must give SHHP a copy of any owner eviction notice [24 CFR 982.551(g)].
- SHHP has terminated the assisted lease for the participant's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- SHHP determines that the participant's current unit does not meet the HQS space standards because of an increase in participant size or a change in participant composition. In such cases, SHHP must issue the participant a new RAD, and the participant and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the participant, SHHP must terminate the HAP contract for the participant's old unit in accordance with the HAP contract terms and must notify both the participant and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which SHHP gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A participant's right to move is generally contingent upon the participant's compliance with program requirements [24 CFR 982.1(b)(2)].

10-I.C. MOVING PROCESS

Notification

If a participant wishes to move to a new unit, the participant must notify SHHP and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

Upon receipt of a participant's notification that they wish to move, SHHP will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B.

Reexamination of Household Income and Composition

SHHP will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

RAD Issuance and Briefing

SHHP will issue a new RAD to move. No briefing is required for these participants. SHHP will follow the policies set forth in Chapter 5 on RAD term, extension, and expiration. If a participant does not locate a new unit within the term of the RAD and any extensions, the participant may remain in its current unit with continued S+C assistance if the owner agrees and SHHP approves. Otherwise, the participant will lose its assistance.

Housing Assistance Payments [24 CFR 982.311(d)]

When a participant moves out of an assisted unit, SHHP may not make any housing assistance payment to the owner for any month **after** the month the participant moves out. The owner may keep the housing assistance payment for the month when the participant moves out of the unit.

If a participant 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 participant moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the participant moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy. Under no circumstances will SHHP pay two full HAP payments to two different landlords for the same month.

10-I.D. MAXIMUM FLEXIBILITY/MOVES BETWEEN SERVICE PROVIDERS

The participating service provider agencies will make every effort to assure that every reasonable step is taken to maximize the flexibility of the program and to allow participants to move between SHHP S+C participating agencies when such movement is in the participant's best interests and desires and as program funds allow. When a participant moves from one service agency to another, the receiving agency will absorb the allocation and provide the supportive

services match for that allocation. The transferring agency may elect to reduce its program size by the size of the transferred allocation. These moves must be approved and facilitated by the SHHP Shelter Plus Care Program Coordinator.

This applies only to current SHHP S+C participant who wishes to move to an eligible unit in the jurisdiction of a local service agency that provides services for a SHHP S+C program. SHHP must receive the requested documentation a minimum of 60 days prior to the expected move. The time is necessary so that arrangements may be made by SHHP between the two participating agencies. Once SHHP receives the request, approval or denial will be granted and both the initial agency and the receiving agency will be notified of SHHP's decision. Approvals will be granted unless the applicant or participant:

1. Fails to submit the move request in a timely manner;
2. Moves without giving proper notice;
3. Breaches a participant obligation;
4. Does not follow through with requirements set by the receiving agency; or
5. Moves before all arrangements have been made between the two participating agencies.

A RAD will be issued by the initial agency to the participant and sent to the receiving agency and also to SHHP. When the receiving agency receives the approval, arrangements must be made with the initial agency to obtain a copy of the tenant's housing file and a signed release of information. Both agencies will assist the tenant by setting up appointments for intake or providing necessary information for the transfer of services. The receiving agency will assist the tenant in their housing search, perform the HQS inspection, and complete all necessary paperwork required by SHHP.

The Division of Behavioral Health (DBH) CBHC Program and Standards Committee has made the following recommendation: "if a consumer wishes to move with their RAD from one service area to another, the receiving mental health center will take on the administrative responsibility for the rental assistance program. Consequently, DBH expects that the receiving mental health center will assume administrative responsibilities. It is understood that the consumer may be requesting "housing only" services."

Transporting Tenant Files Between Agencies

Supportive Housing and Homeless Programs has adopted the following policy that is to be used anytime files are being transported. This policy applies to files being transported between SHHP and a local service provider, and to files that are being transported between agencies in the case of portability.

1. All files that are being transported 25 miles or less will be hand delivered. While being transported, whenever possible, the files must be in a locked trunk. A SHHP staff member or an employee of the local service-providing agency can do the actual transporting.
2. All files that are being transported greater than 25 miles, which are not being transported via a vehicle, will be transported using FED EX or UPS. The decision of which vendor to use will be determined by the SHHP administrative team. Each package will have a tracking number and require a signature at delivery.
3. Files being transported from agency to agency when the distance is greater than 25 miles will be sent using FED EX or UPS with the cost being paid by SHHP.

Chapter 11

REEXAMINATIONS

INTRODUCTION

SHHP is required to reexamine each participant's income and composition at least annually, and to adjust the participant'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 participant share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for participants to report changes in household income and composition between annual reexaminations.

Part III: Recalculating Participant Share and Subsidy Amount. This part discusses the recalculation of participant share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, participant privacy, required participant cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

SHHP must conduct a reexamination of household income and composition at least annually. This includes gathering and verifying current information about household composition, income, and expenses. Based on this updated information, the household's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

SHHP must establish a policy to ensure that the annual reexamination for each participant is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

- Per procedures described in the SHHP Procedures Manual, SHHP will advise participants by letter approximately 120 days before the effective date of the participant's annual reexamination of the participant's responsibility to complete the reexamination in a timely manner. Subsequent letters will be sent by SHHP and by residential coordinators in the event that participants have failed to complete the required paperwork, or if there is documentation missing.
- SHHP will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, SHHP will schedule annual reexamination effective dates to coincide with the participant's anniversary date.
- *Anniversary date* is defined as 12 months from the effective date of the participant's last annual reexamination or, during a participant's first year in the program, from the effective date of the participant's initial admission into the program.
- If the participant moves to a new unit, SHHP will perform a new annual reexamination.
 - SHHP also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

SHHP is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of SHHP.

- Participants are required to participate in an annual reexamination process, which requires the participation of the head of household, spouse, or co-head and all household members 18 years of age or older. If this process poses a hardship because of a household member's disability, the participant should contact SHHP to request a reasonable accommodation (see Chapter 2).
- Notification of annual reexamination will be sent by first-class mail. In addition, the notification will inform the participant of the information and documentation that must be submitted to complete the annual reexamination process.

- If a participant does not submit the required documentation by the indicated deadline, SHHP will send a second notification with a new deadline.
- If a participant fails to submit the documentation by the second deadline, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) may be sent to the participant's address of record, and to any alternate address provided in the participant's file.
- The effective date of the termination will be the effective date of what would have been the reexamination date if paperwork is still not received.

An advocate, interpreter, or other assistant may assist the participant in the annual reexamination process.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, participants are required to provide updated information to SHHP regarding the household's income, expenses, and composition [24 CFR 982.551(b)].

- Participants will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a SHHP-designated reexamination form (Family Reporting Form), an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the household's income, expenses, and household composition.
- Any required documents or information that the participant is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the participant is unable to obtain the information or materials within the required time frame, the participant may request an extension.
- If the participant does not provide the required documents or information within the required time frame (plus any extensions), the participant may be sent a notice of termination (See Chapter 12).

The information provided by the participant generally must be verified in accordance with the policies in Chapter 7. Unless the participant reports a change, or the agency has reason to believe a change has occurred in information previously reported by the participant, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- Citizenship or immigration status

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving S+C assistance as of November 30, 2005, the student's eligibility must be reexamined, along with the income eligibility of the student's parents, on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive S+C assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an S+C assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

- During the annual reexamination process, SHHP will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.
- If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.
- If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), SHHP will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

SHHP has established policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

In general, an *increase* in the participant share of the rent that results from an annual reexamination will take effect on the participant's anniversary date, and the participant will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the participant's anniversary date.
- If a participant moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If SHHP chooses to schedule an annual reexamination for completion prior to the participant's anniversary date for administrative purposes, the effective date will be determined by SHHP, but will always allow for the 30-day notice period.

- If the participant causes a delay in processing the annual reexamination, *increases* in the participant share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The participant will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the participant share of the rent that results from an annual reexamination will take effect on the participant's anniversary date.

- If a participant moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If SHHP chooses to schedule an annual reexamination for completion prior to the participant's anniversary date for administrative purposes, the effective date will be determined by SHHP.
- If the participant causes a delay in processing the annual reexamination, *decreases* in the participant share of the rent will be applied at the participant's anniversary date.

Delays in reexamination processing are considered to be caused by the participant if the participant fails to provide information requested by SHHP by the date specified, and this delay prevents SHHP from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Participant circumstances may change throughout the period between annual reexaminations. HUD and SHHP policies dictate what kinds of information about changes in participant circumstances must be reported, and under what circumstances SHHP must process interim reexaminations to reflect those changes. HUD regulations also permit SHHP to conduct interim reexaminations of income or household composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the participant must report, HUD regulations permit the participant to request an interim determination if other aspects of the household's income or composition changes. SHHP must complete the interim reexamination within a reasonable time after the participant's request.

This part includes HUD and SHHP policies describing what changes participants are required to report, what changes participants may choose to report, and how SHHP will process both SHHP- and participant-initiated interim reexaminations.

11-II.B. HOUSEHOLD COMPOSITION

SHHP will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Household Members Not Requiring Approval

The addition of a household member as a result of birth, adoption, or court-awarded custody does not require SHHP approval. However, the participant is required to promptly notify SHHP of the addition [24 CFR 982.551(h)(2)].

- The participant must inform SHHP of the birth, adoption or court-awarded custody of a child within 10 business days.
- The participant is required to provide any documentation requested by SHHP including, but not limited to, birth certificates and social security cards. For all required documentation, see Chapters 3, 6, and 7.

New Household Members Requiring Approval

With the exception of children who join the household as a result of birth, adoption, or court-awarded custody, a participant must request PHA approval to add a new household member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new household member is added, SHHP must conduct a reexamination to determine any new income or deductions associated with the additional household member, and to make appropriate adjustments in the participant share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in household size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), SHHP must issue the participant a new RAD, and the participant and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the participant, SHHP must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

- Participants must request SHHP approval to add a new household member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days, 30 cumulative days within a twelve-month period or per the time constraints of the lease, whichever is less, no longer qualifies as a “guest.” Requests must be made in writing and approved by SHHP prior to the individual moving in the unit.
- SHHP will not approve the addition of a new household member unless the individual meets SHHP’s eligibility criteria (see Chapter 3).
- SHHP will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.
- If SHHP determines an individual meets SHHP’s eligibility criteria as defined in Chapter 3, SHHP will provide written approval to the participant. If the approval of a new household member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the participant will be issued another RAD and will be required to move.
- If SHHP determines that an individual does not meet SHHP’s eligibility criteria as defined in Chapter 3, SHHP will notify the participant in writing of its decision to deny approval of the new household or household member and the reasons for the denial.
- SHHP will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

Household additions are at SHHP’s discretion. Related adults may be added to a household only as a disability accommodation for the head of household or the head of household’s dependent(s). SHHP may consider the addition of related adults when the household can demonstrate that it is necessary and reasonable for them to provide medical/life activities care for the proposed addition(s). Example: A head of household demonstrates that her disabled, elderly mother needs to come and live with her, for reasons related to her disability and has no other means of obtaining affordable and safe housing.

If an adult who was previously on the household’s lease leaves the household but wishes to return within one year of leaving, SHHP will consider reinstating this adult to the household subject to an acceptable background check.

If they are found to be eligible and do pass the screening criteria, SHHP will grant approval to add their name to the lease. At the same time, the household's annual income will be recalculated taking into account the income and circumstances of the new household member.

If any new household member is added, household income must include any income of the new household member or additions to household income as a result of the new member addition. SHHP will conduct an interim re-examination to review such additional income and will make the appropriate adjustments in the Housing Assistance Payment and participant unit size.

Two disabled adults residing in the same unit as roommates are considered shared housing and the rent should be calculated accordingly. (See Section on Shared housing.)

When there are two adults in the household (not roommates), the participant is designated as the head of household. Signatures on the lease, and the RAD evidence this designation.

Departure of a Household Member

Participants must promptly notify SHHP if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the participant unit size [24 CFR 982.402], SHHP also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

- If a household member ceases to reside in the unit, the participant must inform SHHP within 10 business days. This requirement also applies to a household member who has been considered temporarily absent at the point that the participant concludes the individual is permanently absent.
- If a live-in aide, foster child, or foster adult ceases to reside in the unit, the participant must inform SHHP within 10 business days.
- If SHHP determines the participant is over-housed, SHHP will notify the participant in writing that their subsidy will decrease at their next annual reexamination.

If a household member leaves the unit for more than 30 days in a calendar year, except for medical circumstances, they will be considered to have left the household. This change must be reported in writing to SHHP and/or the Local Service Provider immediately. SHHP will then reevaluate the eligible RAD size for the participant. Please refer to 4.2 for procedures on over housed participants.

A child who is “temporarily away” (up to six months) from the home because of placement in foster care is considered a member of the household. At the end of the six-month period, verification of the out-of-home placement will require documentation from the court or social service agency that states the placement is extended in order for the household to continue to include the dependent as a household member. If this documentation is not received at 6-months, the participant will be considered over housed and their RAD size will be reduced if applicable.

In circumstances of a household break-up, the participant retains the RAD.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because SHHP has reason to believe that changes in income (in the case of an adult family member increasing from 0 income) or because the participant reports a change.

SHHP-Initiated Interim Reexaminations

SHHP-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by SHHP. They are not scheduled because of changes reported by the participant.

SHHP will not conduct interim reexaminations for an increase in household income unless the income increase was to an adult household member who had previously reported 0 income.

SHHP will conduct interim reexaminations in each of the following instances:

- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), SHHP will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, SHHP will conduct an interim reexamination.
- SHHP may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.
- S+C participants are required to provide written documentation of interim changes to SHHP and/or the Local Service Provider within 10 business days of when the change occurs. An interim examination will not be required but this documentation will allow for more accurate calculation of income where there is a need to annualize reported income.

Participant-Initiated Interim Reexaminations

Required Reporting

SHHP requires participants to report changes affecting income in the following circumstances:

- Participants are required to report all increases in income, including new employment, benefits, pensions etc., in writing within 10 business days of the participant's notification of the change.
- SHHP will conduct an interim reexamination for any adult household member who reported zero income at the participant's last review and is now receiving some form of income.
- If any new household member is added, household income must include any income of the new household member or additions to household income as a result of the new

member addition. SHHP will conduct an interim re-examination to review such additional income and will make the appropriate adjustments in the Housing Assistance Payment and participant unit size.

Optional Reporting

The participant may request an interim reexamination any time the participant has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. SHHP must process the request if the participant reports a change that will result in a reduced household income [HCV GB, p. 12-9].

If a participant reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the participant's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

- If a participant reports a change that it was not required to report and that would result in an increase in the participant share of the rent, SHHP will note the information in the tenant file, but will not conduct an interim reexamination.
- If a participant reports a change that it was not required to report and that would result in a decrease in the participant share of rent, SHHP will conduct an interim reexamination. See Section 11-II.D. for effective dates.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

- The participant must notify SHHP of changes in writing. If the participant provides oral notice, SHHP will require the participant to submit the changes in writing.
- Generally, the participant will not be required to attend an interview for an interim reexamination. However, if SHHP determines that an interview is warranted, the participant may be required to attend.
- Based on the type of change reported, SHHP will determine the documentation the participant will be required to submit. The participant must submit any required information or documents within 10 business days of receiving a request from SHHP. This time frame may be extended for good cause with SHHP approval. SHHP will accept required documentation by mail, by fax, or in person.

Effective Dates

SHHP has established the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the participant share of the rent, and whether the participant reported any required information within the required time frames [HCV GB, p. 12-10].

If the participant share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the participant and to the landlord.
- If a participant fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The participant will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the participant share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART III: RECALCULATING PARTICIPANT SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, SHHP must recalculate the participant share of the rent and the subsidy amount, and notify the participant and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part outlines policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN FAIR MARKET RENTS AND UTILITY ALLOWANCES

In order to calculate the participant share of the rent and HAP amount correctly, changes in FMRs, subsidy standards, or utility allowances may need to be updated and included in SHHP's calculations.

Specific policies governing how subsidy standards, FMRs, and utility allowances are applied are discussed below.

Fair Market Rents (FMRs)

The participant share of the rent and HAP calculations must use the correct FMR for the participant, taking into consideration the participant unit size, the size of the unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate FMR.

When HUD publishes new Fair Market Rents (FMRs) or the participant's situation changes, new FMRs are applied at the following times:

- If the FMR amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
 - If the FMR amount has *increased*, the increased FMR will be applied at the *first annual* reexamination following the effective date of the increase in the FMR.
 - If the FMR amount has *decreased*, the decreased FMR will be applied at the *second annual* reexamination following the effective date of the decrease in the FMR.
- If the participant moves to a new unit, the current FMR applicable to the participant will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the participant RAD size that would apply to a participant during the HAP contract term, either due to a change in household composition, or a change in SHHP's subsidy standards (see Chapter 5), the new participant RAD size must be used to determine the FMR amount for the participant at the participant's *first annual* reexamination following the change in participant RAD size.

Utility Allowances [24 CFR 982.517(d)]

The participant share of the rent and HAP calculations must reflect any changes in the participant's utility arrangement with the owner, or in SHHP's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, SHHP must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, SHHP must use SHHP current utility allowance schedule [24 CFR 982.517(d)(2)].

- Revised utility allowances will be applied to a participant's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

The same utility allowance schedule is used for all tenant-based programs.

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 participant's actual energy consumption.

SHHP's utility allowance schedules, and the utility allowance for a participant, must include the utilities and services that are necessary in the locality to provide housing that complies with the Housing Quality Standards.

SHHP will not provide any allowance for non-essential utility costs, such as costs of cable or satellite television. SHHP also will not include an allowance for air conditioning except as a reasonable accommodation for a person with a disability. It is SHHP's belief that no jurisdiction within the state has such a climate that qualifies as an area where an air conditioning allowance is necessary.

SHHP must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric, refrigerator (for tenant-supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

SHHP will review the utility allowance schedule annually. If the review determines that 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's rent calculation at their next re-examination. The utility allowance is based on the actual unit size selected.

Where participants provide their own range and refrigerator, SHHP will establish an allowance adequate for the participant to purchase or rent a range or refrigerator, even if the participant already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12-month period. Where the calculation on HUD Form 50058 results in a utility reimbursement payment due the participant [24 CFR 982.514(b)], SHHP will provide a utility reimbursement payment for the participant each month. The check will be made out to and sent directly to the tenant.

If the landlord reports a flat fee for specific utilities the flat monthly fee should be added to the monthly rent amount rather than giving the participant a utility allowance for that utility. For example, if the complex charges a flat fee of \$10.00 a month for water and \$500.00 for rent change the rent figure to \$510.00 and provide no utility allowance for water to the participant.

Flat-Rate Utility Billing for Multi-Unit Buildings

SHHP will replace the utility allowance for water/sewer and/or garbage in multi-unit buildings with the flat rate fees actually charged to tenants for these services by the owner, if the specifics of the flat rate are detailed in the lease and not subject to change during the term of the lease.

11-III.C. NOTIFICATION OF NEW PARTICIPANT SHARE AND HAP AMOUNT

SHHP must notify the owner and participant of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new tenant rent to owner

The participant must be given an opportunity for an informal hearing regarding SHHP's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, SHHP may discover that information previously reported by the participant was in error, or that the participant intentionally misrepresented information. In addition, SHHP may discover errors made by SHHP. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a participant's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted participant. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a participant's assistance may be terminated, including voluntary termination by the participant, termination because the participant no longer qualifies to receive subsidy, and termination by SHHP based on the participant's behavior.

Part II: Termination of Participants Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that SHHP may consider in lieu of termination, the criteria SHHP must use when deciding what action to take, and the steps SHHP must take when terminating a participant's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE [24 CFR 582.320]

12-I.A. OVERVIEW

Assistance may be terminated if a participant violates conditions of occupancy. HUD S+C program regulations, however, recommend that grantees be as lenient as possible, so that assistance is terminated for only the most serious rule violations. Adequate supportive services should be provided so that the need for termination is rare. Even termination should not necessarily eliminate contact. Ideally, local service agencies should be trying to bring the homeless person back into the program. However, when all alternatives have been explored and termination is still necessary, SHHP works through a formal process that protects the due process rights of the resident. Applicants may re-apply for assistance under the SHHP S+C program as long as they meet all eligibility criteria.

In addition, a participant may decide to stop receiving S+C assistance at any time by notifying SHHP.

12-I.B. PARTICIPANT NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a participant's income increases, the amount of PHA subsidy goes down. If the amount of S+C assistance provided by SHHP drops to zero and remains at zero for 180 consecutive calendar days the participant's assistance terminates automatically.

- If a participating participant receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the participant must notify SHHP of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. PARTICIPANT CHOOSES TO TERMINATE ASSISTANCE

The participant may request that SHHP terminate the S+C assistance at any time.

- The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the participant's assistance, SHHP will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires SHHP to terminate assistance in the following circumstances. Prior to terminating assistance, it is expected that the local service provider attempt outreach to assist the participant in complying with program requirements.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

SHHP must terminate assistance if any participant member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

SHHP must terminate assistance if (1) a participant fails to submit required documentation within the required timeframe concerning any participant member's citizenship or immigration status; (2) a participant 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 participant; or (3) a participant member, as determined by SHHP, 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 non-citizens already in the household where the participant's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

SHHP must terminate assistance if a participant fails to provide the documentation or certification required for any household member who obtains a social security number, joins the participant, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

SHHP must terminate assistance if any household member is been convicted of the manufacture or production of methamphetamine while in the S+C program.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(I)]

SHHP may terminate assistance if SHHP determines that a household member is engaged in the following:

Use of Illegal Drugs and Alcohol Abuse

- SHHP may terminate a participant's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- SHHP may terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

- SHHP will consider all credible evidence, including but not limited to any substance abuse treatment, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

- In making its decision to terminate assistance, SHHP will consider alternatives as described in Sections 12-II.D and 12-II.E. and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, SHHP may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the 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.

- SHHP may terminate a participant’s assistance if any household member has violated the participant’s obligation not to engage in any drug-related or violent criminal activity during participation in the S+C program.
- SHHP will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.
- In making its decision to terminate assistance, SHHP will consider alternatives as described in Sections 12-II.D and 12-II.E. and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, SHHP may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits SHHP to terminate assistance under a number of other circumstances. It is left to the discretion of SHHP whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2005 explicitly prohibits PHAs from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

SHHP **may** terminate a participant’s assistance if:

- The participant has failed to comply with any participant obligations under the program. See Exhibit 12-1 for a listing of participant obligations and related PHA policies.
- Any participant member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

- The participant currently owes rent or other amounts to any PHA in connection with the S+C, Certificate, Moderate Rehabilitation or public housing programs and has not executed a repayment agreement.
- The participant has not reimbursed any PHA for amounts SHHP paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the participant under the lease.
- The participant has breached the terms of a repayment agreement entered into with SHHP.
- The participant's family is absent from the unit for a period of more than 90 consecutive days. "Absent" means that no member of the family is residing in the unit.
- A participant 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. This policy also covers staff of the local service provider agency.

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

In making its decision to terminate assistance, SHHP will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, SHHP may, on a case-by-case basis, choose not to terminate assistance.

PART II: TERMINATION OF PARTICIPANT'S ASSISTANCE

12-II.A. OVERVIEW

SHHP is required by regulation to terminate a participant's assistance if certain program rules are violated. For other types of offenses, the regulations give SHHP the discretion to either terminate the participant's assistance or to take another action. This part discusses the various actions SHHP may choose to take when it has discretion, and outlines the criteria SHHP 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.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which SHHP terminates assistance depends upon individual circumstances. HUD permits SHHP to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, SHHP may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

- As a condition of continued assistance, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The participant must present evidence of the former household member's current address upon PHA request.

Repayment of Participant Debts

- If a participant owes amounts to SHHP, as a condition of continued assistance, SHHP will require the participant to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from SHHP of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits SHHP 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)].

- SHHP 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)]

SHHP will consider all relevant circumstances when determining whether a participant's assistance should be terminated.

SHHP will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that termination of assistance may have on other members of the participant who were not involved in the action or failure
- The extent of participation or culpability of individual household members, including whether the culpable household member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, or stalking
- The length of time since the violation occurred, the participant's recent history and the likelihood of favorable conduct in the future
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- SHHP will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the participant.

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

SHHP's decision to terminate the participant's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

- If a participant indicates that the behavior of a household member with a disability is the reason for a proposed termination of assistance, SHHP will determine whether the behavior is related to the disability. If so, upon the participant's request, SHHP will determine whether alternative measures are appropriate as a reasonable accommodation. SHHP will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed

termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12 II-E. SHHP TERMINATION PROCEDURES

In deciding whether to deny or terminate assistance because of action or failure to act by members of the household, SHHP has discretion to consider all of the circumstances in each case, including the seriousness of the case. SHHP will use its discretion in reviewing the extent of participation or culpability of individual household members and the length of time since the violation occurred. SHHP will use the process below to ensure the participant is given every chance to succeed. SHHP does however reserve the right to evaluate each case individually and proceed straight to termination when warranted. SHHP may also review the household's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other household members who were not involved in the action or failure to act.

SHHP may impose, as a condition of continued assistance for other household members, a requirement that household members who participated in, or were culpable for the action or failure to act, will not reside in the unit. SHHP may permit the other members of a household to continue in the program.

Termination Process (please note, there will be additional steps to the termination process for non-compliance with treatment, see the process below)

Termination Process for S+C clients for significant program violations

STEP 1: Participant is provided a copy of lease violations from the landlord or become aware of program violations, issue an *Agency Notice* to the tenant along with a signed copy of the *Statement of Understanding* to the letter reminding the participant of program obligations. Participant is requested to contact the residential coordinator to discuss the program violations.

STEP 2: If the participant does not follow-up with you or if the participant commits more violations case management outreach is arranged. If participant does not respond to case management outreach and does not contact the residential coordinator, schedule a tenant conference using the *Agency/ Tenant Conference* letter provided. All adult household members should be required to attend the meeting.

STEP 3: At the tenant conference, review the violations with the participant. Review the contents of the *Statement of Understanding*. Request that the participant sign a *Meeting Acknowledgement* letter verifying their understanding of the discussion in the conference.

If the participant does not show for the tenant conference, document the situation, arrange for additional case management or other outreach and proceed to Step 4.

STEP 4: If the participant continues to have lease/program violations or fails to show for the conference, the residential coordinator contacts SHHP staff and discusses options. These options may include additional contact with the participant, SHHP participant conference including the creation a *timeline* for SHHP. This *timeline* should document a history of the violations

committed along with the dates in which the events occurred. The timeline should also contain information regarding the agency's attempts at resolving the issues and any supporting documentation.

STEP 5: Submit to SHHP a *timeline* along with *all violation notices*, *Statements of Understanding*, and *Meeting Acknowledgements* signed at the previous meetings. SHHP will review the information and schedule a conference with the tenant. It is expected that the housing coordinator and, if possible, case manager/therapist will also attend.

STEP 6: At the tenant conference, SHHP will review all information submitted by the housing coordinator with the participant. SHHP will also request that the participant sign a warning letter informing them that future violations will result in termination of housing assistance.

If the participant fails to show for the tenant conference with SHHP, SHHP will proceed with Step 7.

STEP 7: If the participant continues to commit violations or fails to show for the tenant conference, SHHP will issue a termination letter. The participant will have 10 days to request an informal hearing. If they do not request an informal hearing, termination will occur as scheduled.

STEP 8: If the participant requests an informal hearing, SHHP will schedule a meeting with the participant and hearing officer. The hearing officer will make a decision regarding the status of the participant's housing.

Termination Process for S+C clients who are non-compliant with treatment

STEP 1: If a participant misses 2 consecutive scheduled treatment/case management/housing appointments the case manager/therapist will attempt to contact the participant by phone and/or mail. If the therapist is unable to contact the participant and/or the participant fails to contact the therapist or reengage in treatment a case management outreach will be arranged.

STEP 2: If there is still no contact the therapist will notify the participant's housing coordinator.

STEP 3: At that time the housing coordinator will send out an Agency Infraction Letter to the participant informing them to contact the housing coordinator within 10 days to discuss their non-compliance with treatment.

STEP 4: If the participant responds to the letter, the residential coordinator will meet with the participant to discuss the lack of follow through with treatment (preferably involving the therapist or case manager). Then return to Step 1. The housing coordinator should also determine if there is any link between the participant's non-compliance with treatment and other behaviors (Is the participant paying their rent/utilities? Any police contact?) The housing coordinator will also arrange another case management outreach attempt.

STEP 5: If there is still no contact with their housing coordinator or therapist a 2nd letter will be sent out setting up an agency tenant conference.

STEP 6: If the participant attends the agency tenant conference a concrete plan should be put in place to assist the participant in complying with the requirements of the Shelter Plus Care Program. Then return to Step 1. Move on to Step 7 if the participant fails to comply with the agreement set out in the agency tenant conference the 2nd time.

STEP 7: If the participant fails to attend the meeting or contact their housing coordinator a letter will be sent to the participant setting up a meeting at the client's home. After a minimum of 2 unsuccessful outreach attempts by the housing coordinator and/or the participant's therapist or outreach worker a letter will be sent to the participant by SHHP staff scheduling a SHHP conference.

STEP 8: If the participant attends the SHHP tenant conference a concrete plan should be put in place to assist the participant in complying with the requirements of the Shelter Plus Care Program.

STEP 9: If the participant fails to attend the SHHP tenant conference or comply with the agreed upon concrete plan set out in the SHHP tenant conference, the SHHP staff will request a timeline from the residential coordinator and request a termination of the participant from the S+C program from the Manager of Homeless and Resource Development.

STEP 10: If the Manager of Homeless and Resource Development approves the termination the SHHP staff will send a termination notice to the participant, the participant's landlord and the residential coordinator.

STEP 11: The SHHP staff will exit the participant from Elite and the residential coordinator will exit the participant from HMIS on the date of termination.

NOTE: SHHP will consider all relevant circumstances when considering whether to terminate a participant's assistance. (see chapter 12.II.D, consideration of circumstances)

12-II.F. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's household is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives PHAs the 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 evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

VAWA does not limit the authority of SHHP to terminate the assistance of any participant if SHHP “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.” However, situations where this might be relevant are extremely rare.

In determining whether a participant who is a victim of domestic violence, dating violence, 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, 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

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.

Victim Documentation

When a participant 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 household 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, or stalking, SHHP will request in writing that the individual submit documentation affirming that claim. The written request will include explicit 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-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the PHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, 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 participant'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 SHHP 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 household members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if SHHP 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 [Pub.L. 109-271].

- When the actions of a participant or other household member result in a PHA decision to terminate the participant's assistance and another household member claims that the actions involve criminal acts of physical violence against household members or others, SHHP will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, SHHP will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, SHHP will proceed with termination of the participant's assistance.
- If SHHP can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, SHHP will bypass the standard process and proceed with the immediate termination of the participant's assistance.

PHA Confidentiality Requirements

All information provided to SHHP regarding domestic violence, dating violence, 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.

12-II.G. TERMINATION NOTICE [HCV GB, p. 15-7]

If a participant's assistance is to be terminated, whether voluntarily or involuntarily, SHHP must give the participant and the owner written notice that specifies:

- The reasons for which assistance has been terminated
 - The effective date of the termination
- The participant's right to an informal hearing as described in Chapter 16
- If a criminal record is the basis of the termination, a copy of the record will be sent to the individual after a written request is received. A copy of the criminal record also must be provided to the subject of the record upon request [24 CFR 982.553(d)].

When termination is initiated by SHHP, the notice to terminate will be sent to the participant and the owner at least 30 calendar days prior to the effective date of the termination. However, if a participant vacates the unit without informing SHHP, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time SHHP learns the participant has vacated the unit.

- When a participant requests to be terminated from the program they must do so in writing to SHHP (see section 12-I.C.). SHHP will then send a confirmation notice to the participant and the owner within 10 business days of the participant's request, but no later than the termination effective date (as requested by the participant).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

SHHP must terminate assistance if (1) a participant fails to submit required documentation within the required timeframe concerning any household member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a participant; or (3) SHHP determines that a household member 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.

The notice of termination must advise the participant 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 SHHP either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

- The notice to terminate will be mailed to the participant and the owner at least 30 calendar days prior to the effective date of the termination via certified and regular mail.

12-II.H. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the participant's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the participant a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the participant; SHHP is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

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 participant's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, SHHP's failure to make a HAP payment to the owner is not a violation of the lease between the participant and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a household member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

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 for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.
- 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 participant for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's household is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).

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 participant 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 participant 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; or
- 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 participant notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action. The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give SHHP a copy of any eviction notice at the same time the owner notifies the participant. The participant is also required to give SHHP a copy of any eviction notice (see Chapter 5).

- If the eviction action is finalized in court, the owner must provide SHHP with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), Pub.L. 109-162]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
- The effect of the owner's action on the integrity of the program.

The owner may require a participant 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, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (See Section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE PARTICIPANT'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if SHHP has no other grounds for termination of assistance, SHHP may issue a new RAD so that the participant can move with continued assistance (see Chapter 10).

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the S+C program by supplying decent, safe, and sanitary housing for participants.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the S+C program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to participants, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the S+C program.

The chapter is organized in two parts:

Part I: Owners in the S+C Program. This part discusses the role of an owner in SHHP’s S+C program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between SHHP and the owner as expressed in the HAP contract.

For detailed information about S+C program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE S+C PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION

Recruitment

PHAs are responsible for ensuring that very low income families have access to all types and ranges of affordable housing in SHHP's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for SHHP to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in SHHP's jurisdiction, are willing to participate in the S+C program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

- SHHP will conduct owner outreach to ensure that owners are familiar with the program and its advantages. SHHP will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:
 - Distributing printed material about the program to property owners and managers
 - Contacting property owners and managers by phone or in-person
 - Holding owner recruitment/information meetings as needed
 - Participating in community based organizations comprised of private property and apartment owners and managers
 - Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the S+C program, SHHP must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All PHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

SHHP will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

SHHP will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated PHA contact person.
- Coordinating inspection and leasing activities between SHHP, the owner, and the participant.

- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC S+C PROGRAM REQUIREMENTS

HUD requires SHHP to aid participants in their housing search by providing the participant with a list of landlords or other parties known to SHHP who may be willing to lease a unit to the participant, or to help the participant find a unit. Although SHHP cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to SHHP their willingness to lease a unit to an eligible S+C participant, or to help the S+C participant find a unit [24 CFR 982.301(b)(11)].

- Owners that wish to indicate their willingness to lease a unit to an eligible S+C participant or to help the S+C participant find a unit must notify SHHP. SHHP will maintain a listing of such owners and provide this listing to the S+C participant as part of the informational briefing packet

When a participant approaches an owner to apply for tenancy, the owner is responsible for screening the participant and deciding whether to lease to the participant, just as the owner would with any potential tenant. SHHP has no liability or responsibility to the owner or other persons for the participant's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant screening policies and process.

If the owner is willing, the participant and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the participant's request for assistance in the specified unit, and which documents the owner's willingness to lease to the participant and to follow the program's requirements. When submitted to SHHP, this document is the first step in the process of obtaining approval for the participant to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular participant, either because of his or her past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the S+C program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. SHHP will inspect the owner's dwelling unit at various stages of S+C program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the participant's tenancy.

SHHP must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted participant. However, the S+C program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted participants, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

SHHP and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, Pub.L. 109-162]

The basic owner responsibilities in the S+C program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a RAD-holder to lease the unit, and deciding if the participant is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to SHHP information required under the HAP contract
 - Collecting from the participant any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from SHHP), and any charges for unit damage by the participant.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the participant under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]

- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

SHHP does not formally approve an owner to participate in the S+C program. However, there are a number of criteria where SHHP may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the S+C program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

SHHP must not approve the assisted tenancy if SHHP has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct SHHP not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

Unless the lease between the owner and the participant was effective prior to June 17, 1998, the owner may not be the parent, child, grandparent, grandchild, sister, or brother of any member of the participant. SHHP may make an exception as a reasonable accommodation for a household member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the participant receives assistance under the S+C program for occupancy of a particular unit. Current contracts on behalf of owners and participants that are related may continue, but any new leases or contracts for these participants will not be approved except as a reasonable accommodation.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

SHHP must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of SHHP (except a participant commissioner)
- Any employee of SHHP, or any contractor, subcontractor or agent of SHHP, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. SHHP must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by SHHP must include:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, SHHP, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the S+C program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular participant, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the S+C program;
- If the case involves employment of a household member by SHHP or assistance under the S+C program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the S+C program;
- If the case involves an investment on the part of a member, officer, or employee of SHHP, description of the nature of the investment, including disclosure/divestiture plans.
- Where SHHP has requested a conflict of interest waiver, SHHP may not execute the HAP contract until HUD has made a decision on the waiver request.
- In considering whether to request a conflict of interest waiver from HUD, SHHP will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular participant; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit SHHP, at SHHP's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If SHHP disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

- SHHP will refuse to approve a request for tenancy if SHHP becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of SHHP, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, SHHP will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of participants to lease units under the program, health and safety of participants, among others. Upon consideration of such circumstances, SHHP may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the S+C program.

- SHHP will only enter into a contractual relationship with the legal owner of a qualified unit. SHHP will assume legal ownership until given a reason not to. At that point, SHHP will require acceptable documentation of legal ownership.

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the S+C program and the HAP contract with SHHP.

The owner must cooperate with SHHP and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the S+C program and the HAP contract with SHHP.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the S+C program.

PART II. HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between SHHP and the owner of the dwelling unit occupied by a S+C assisted participant. The contract spells out the owner's responsibilities under the program, as well as SHHP's obligations. Under the HAP contract, SHHP agrees to make housing assistance payments to the owner on behalf of a specific participant occupying a specific unit. The HAP contract is used for all S+C program tenancies

If SHHP has given approval for the participant of the assisted tenancy, the owner and SHHP execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of PHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by SHHP is deemed received by the owner (e.g., upon mailing by SHHP or actual receipt by the owner).

- SHHP has not adopted a policy that defines when the housing assistance payment by SHHP is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the S+C program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in

Part B includes:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum. The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by SHHP. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, SHHP must make monthly HAP payments to the owner on behalf of the participant, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. SHHP must notify the owner and the participant in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the participant is residing in the unit.

The monthly HAP payment by SHHP is credited toward the monthly rent to owner under the participant's lease. The total of the rent paid by the tenant, plus SHHP HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The participant is not responsible for payment of the HAP payment, and SHHP is not responsible for payment of the participant share of rent.

The participant's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from SHHP, the excess amount must be returned immediately. If SHHP determines that the owner is not entitled to all or a portion of the HAP, SHHP may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other S+C contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from SHHP, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant participant and, to the best of the owner's knowledge, the participant resides in the unit as the participant's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

SHHP is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if SHHP fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted participant for late payment of the participant's share of the rent.

SHHP is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond SHHP's control. In addition, late payment penalties are not required if SHHP intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

SHHP must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the participant and the participant continues to reside in the unit, SHHP must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

- The owner must inform SHHP when the owner has initiated eviction proceedings against the participant and the participant continues to reside in the unit.
- The owner must inform SHHP when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide SHHP with a copy of such judgment or determination.
- After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, SHHP will continue to make HAP payments to the owner until the participant actually moves from the unit or until the participant is physically evicted from the unit, whichever is earlier. The owner must inform SHHP of the date when the participant actually moves from the unit or the participant is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under S+C
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If SHHP determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

SHHP rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. SHHP may also obtain additional relief by judicial order or action.

SHHP must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. SHHP must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

- Before SHHP invokes a remedy against an owner, SHHP will evaluate all information and documents available to determine if the contract has been breached.
- If relevant, SHHP will conduct an audit of the owner's records pertaining to the tenancy or unit.
- If it is determined that the owner has breached the contract, SHHP will consider all of the relevant factors including the seriousness of the breach, the effect on the participant, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if:

- The owner or the participant terminates the lease;
- The lease expires;
- SHHP terminates the HAP contract;
- SHHP terminates assistance for the participant;
- The participant moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the participant moves out of the unit;
- 180 calendar days have elapsed since SHHP made the last housing assistance payment to the owner;
- The participant is absent from the unit for longer than the maximum period permitted by SHHP;
- SHHP elects to terminate the HAP contract;
- SHHP may elect to terminate the HAP contract in each of the following situations:

- The unit does not meet HQS size requirements due to change in household composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If SHHP terminates the HAP contract, SHHP must give the owner and the participant written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract.

- In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which SHHP gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to SHHP any housing assistance payment received after this period.

If the participant moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required.

When the participant moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the participant moves out of its old unit. This is not considered a duplicative subsidy.

13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of SHHP.

An owner under a HAP contract must notify SHHP in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by SHHP.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that SHHP finds acceptable. The new owner must provide SHHP with a copy of the executed agreement.

- Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the S+C program according to the policies in Section 13-I.D. of this chapter.
- SHHP must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

- Within 10 business days of receiving the owner's request, SHHP will inform the current owner in writing whether the assignment may take place.
- The new owner must provide a written certification to SHHP that includes:
 - A copy of the escrow statement or other document showing the transfer of title and recorded deed;
 - A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
 - The effective date of the HAP contract assignment;
 - A written agreement to comply with the terms of the HAP contract; and
 - Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, SHHP will terminate the HAP contract with the old owner. If the new owner wants to offer the participant a new lease, and the participant elects to stay with continued assistance, SHHP will process the leasing in accordance with the policies in chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

SHHP is committed to ensuring that subsidy funds made available to SHHP are spent in accordance with HUD requirements.

This chapter covers HUD and SHHP policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents SHHP policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures SHHP must and may take when errors or program abuses are found.

**PART I: PREVENTING, DETECTING, AND
INVESTIGATING ERRORS AND PROGRAM ABUSE**

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

SHHP anticipates that the vast majority of participants, owners, and SHHP employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that SHHP's S+C program is administered effectively and according to the highest ethical and legal standards, SHHP will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- SHHP will discuss program compliance and integrity issues during the RAD briefing sessions described in Chapter 5.
- SHHP will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a participant must avoid and the penalties for program abuse.
- SHHP will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key SHHP forms and form letters that request information from a participant or owner.
- SHHP staff will be required to review and explain the contents of all HUD- and SHHP-required forms prior to requesting household member signatures.
- SHHP will provide first-time owners (or their agents) with a briefing packet that includes information on HAP contract requirements.
- SHHP will provide each SHHP 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.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, SHHP will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

SHHP will employ a variety of methods to detect errors and program abuse.

- SHHP routinely will use available sources of up-front income verification to compare with participant-provided information.
- At each annual reexamination, current information provided by the participant will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

- SHHP will compare participant-reported income and expenditures to detect possible unreported income.

Individual Reporting of Possible Errors and Program Abuse

- SHHP will encourage staff, program participants, and the public to report possible program abuse.

Additional SHHP QA procedures

- **HUD Family 50058-** Each time a staff person enters information into Elite a validation of the data is preformed. If any filed requiring data is missed the system will not allow the action to be completed.
- **Adjustment Review-** Prior to each check run, the Elite program specialist reviews all adjustments looking for abnormalities.
- **Check Run Reviews-** The S+C program manager reviews a hard copy print out of each and every check run prior to approving it for payment. The check run is reviewed for payments that appear to be larger than expected, paying for the wrong month, or paying for too many months.
- **Separation of Duties-** Under accountings guidance, SHHP has worked hard to ensure there is a separation of the accounting duties.
- **Financial Audit-** When necessary, a financial audit of all payments made is completed. During this process, routine errors made by the staff can be identified. The types of errors identified are then addressed.
- **Agency Audits-** SHHP's QA officer completes audits of agency files, as a part of evaluating the agency, he also notes deficiencies as they relate to SHHP staff. The information is reviewed from the agency perspective then the 50058 is reviewed to insure that the SHHP staff have correctly interpreted the information provided by the agency. A copy of audit evaluations are forwarded to the S+C Program Manager for review.
- **Repayment Agreements-** The Manager or Team Lead reviews all repayment agreements before approval. This is an area where internal staff errors can be caught
- **Terminations-** the Manager or Team Leader reviews all program terminations prior to approval.
- **Phone calls/complaints-** Many errors come to light via a phone call. When calls are received, the Manager or Team Lead will research the problem and address the errors one on one with the staff person.
- **Training-** All SHHP program staff complete Nan McKay's Housing Choice Voucher Specialist Training and take and pass the certification exam. Additionally, several of the staff have received additional trainings and certifications including, HQS, Program Management etc.
- **Administrative Plan/Procedures Manual-** As we continue to refine our administrative plan and develop our procedures manual, our internal functionality

will become cleaner. One of the most important things from a HUD perspective is that all staff performs the same duties the same way.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When SHHP Will Investigate

- SHHP 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 SHHP 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.
- SHHP will investigate inconsistent information related to the participant that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

SHHP may investigate possible instances of error or abuse using all available SHHP and public records. If necessary, SHHP will require S+C participants to give consent to the release of additional information.

Investigation of Allegations of Abuse and Fraud

If SHHP determines that an allegation or referral warrants investigation, either the staff person who is responsible for the file or a person designated by the S+C Manager shall conduct the investigation.

The steps taken will depend upon the nature of the allegation and may include, but not be limited to, the items listed below. In all cases, written authorization from the program participant shall be received as needed for the release of information.

Employers and Ex-Employers

Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses

Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to SHHP's review.

Other Agencies

Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records

If relevant, the review of any public court records. Examples of public records which may be reviewed include: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.

Interviews with Heads of Household or Household Members

The investigator will discuss the allegation (or details thereof) with the head of household or household member.

Analysis and Findings

SHHP 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 SHHP will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed SHHP, 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 SHHP will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

- In the case of participant-caused errors or program abuse, SHHP will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual household members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a household member, (4) the effects of a particular remedy on household members who were not involved in the offense.
- In the case of owner-caused errors or program abuse, SHHP 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 household members who were not involved in the offense.

Notice and Appeals

- SHHP 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 SHHP determined the error or program abuses, (3) the remedies to be employed, and (4) the participant's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect participant share established for the participant, and (3) an incorrect utility reimbursement to a participant.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, SHHP must promptly correct the HAP, participant share, and any utility reimbursement prospectively.

- Increases in the participant share will be implemented only after the participant has received 30 days notice.
- Any decreases in participant share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the participant or owner is required to reimburse SHHP or SHHP is required to make retroactive subsidy payments to the owner or participant depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. PARTICIPANT-CAUSED ERRORS AND PROGRAM ABUSE

Participant obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by household members.

An incorrect subsidy determination caused by a participant generally would be the result of incorrect reporting of household composition, income, assets, or expenses, but also would include instances in which the participant knowingly allows SHHP to use incorrect information provided by a third party.

Participant Reimbursement to SHHP [HCV GB, p. 22-12 to 22-13]

- In the case of participant-caused errors or program abuse due to willful intent, the participant will be required to repay any excess subsidy received. SHHP may, but is not required to, offer the participant a repayment agreement in accordance with Chapter 16. If the participant fails to repay the excess subsidy, SHHP will terminate the participant's assistance in accordance with the policies in Chapter 12.

Any of the following circumstances will be considered adequate to demonstrate willful intent:

1. An admission by the participant of the misrepresentation;
2. That the act was done repeatedly;
3. If a false name or Social Security Number were used;
4. If there were admissions to others of the illegal action or omission;

5. That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member);
6. That the participant falsified, forged or altered documents; or,
7. That the participant uttered and certified to statements at any stage of the application process or participation in the S+C program, which were later proven to be false.

SHHP Reimbursement to Participant

SHHP will not reimburse the participant for any underpayment of assistance when the underpayment clearly is caused by the participant [HCV GB, p. 22-12].

Prohibited Actions

An applicant or participant in the S+C program must not knowingly:

- Make a false statement to SHHP [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

Any of the following will be considered evidence of participant program abuse:

- Payment to the owner in excess of amounts authorized by SHHP for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to SHHP Board of Commissioners, employees, contractors, or other SHHP representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to SHHP on the participant's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of participant information or circumstances (e.g. income, household composition)
- Omitted facts that were obviously known by a household member (e.g., not reporting employment income)
- Admission of program abuse by an adult household member

SHHP may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a participant SHHP may, at its discretion, impose any of the following remedies.

- SHHP may require the participant to repay excess subsidy amounts paid by SHHP, as described earlier in this section.

- SHHP may require, as a condition of receiving or continuing assistance, that a culpable household member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- SHHP may deny or terminate the participant's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- SHHP may refer the participant for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the participant). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a participant no longer resides in the unit.

Owner Reimbursement to SHHP

In all cases of overpayment of subsidy caused by the owner, the owner must repay to SHHP any excess subsidy received. SHHP may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, SHHP may allow the owner to pay in installments over a period of time [HCV GB, p. 22-13].

- In cases where the owner has received excess subsidy, SHHP will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the S+C program must not:

- Make any false statement to SHHP [Title 18 U.S.C. Section 1001].
 - Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the participant rent above or below the amount specified by SHHP
- Charging a security deposit other than that specified in the participant's lease
- Charging the participant for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the participant has vacated the unit

- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to SHHP Board of Commissioners, employees, contractors, or other SHHP representatives
- Offering payments or other incentives to an S+C participant as an inducement for the participant to make false or misleading statements to SHHP
- Residing in the unit with an assisted participant

Remedies and Penalties

When SHHP determines that the owner has committed program abuse, SHHP may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any SHHP programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. SHHP-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of SHHP staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a SHHP staff member that are considered errors or program abuse related to the S+C program. Additional standards of conduct may be provided in SHHP personnel policy.

SHHP-caused incorrect subsidy determinations include (1) failing to correctly apply S+C rules regarding household composition, income, assets, and expenses, (2) assigning the incorrect RAD size to a participant, and (3) errors in calculation.

Repayment to SHHP

Neither a participant nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by SHHP staff [HCV GB, p. 22-12].

SHHP Reimbursement to Participant or Owner

SHHP must reimburse a participant for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from SHHP's administrative fee reserves [HCV GB, p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by SHHP staff:

- Failing to comply with any S+C program requirements for personal gain
- Failing to comply with any S+C program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participants, vendors, owners, contractors, or other persons who provide services or materials to SHHP
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of SHHP activities, policies, or practices
- Misappropriating or misusing S+C funds
- Destroying, concealing, removing, or inappropriately using any records related to the S+C program
- Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

When SHHP determines that program abuse by an owner, participant, or SHHP staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, SHHP will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the S+C program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

SHHP may retain a portion of program fraud losses that SHHP recovers from a participant or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

SHHP must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits SHHP to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that SHHP incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The participant must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of SHHP related to the collection, these costs must be deducted from the amount retained by SHHP.

The Tenant Conference

When SHHP has established that material misrepresentation(s) have occurred, a tenant conference may be scheduled at SHHP's discretion to discuss the allegations with the participant representative. The tenant conference can be held by SHHP or by the local service provider agency depending on the severity of the offense.

The conference may, in SHHP's discretion, take place prior to any proposed action. The purpose of the conference is to review the information and evidence available with the participant, and to provide the participant an opportunity to explain any findings which conflict with representations in the participant's file. Any documents or mitigating circumstances presented by the participant will be taken into consideration by SHHP. The participant will be given 10 business days to furnish any mitigating evidence.

A secondary purpose of the case conference is to assist SHHP in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, SHHP will consider:

1. The duration of the violation and number of false statements;
2. The participant's ability to understand the rules;
3. The participant's willingness to cooperate, and to accept responsibility for his or her actions;
4. The participant's past history; and
5. Whether or not criminal intent has been established.

Post-Case Conference Notification to Participant of Proposed Action

SHHP will notify the participant by certified mail of the proposed action no later than 30 days after the tenant conference.

Chapter 15

SPECIAL HOUSING TYPES & SPECIAL PROGRAMS

[24 CFR 982 Subpart M]

INTRODUCTION

SHHP may permit a participant to use any of the special housing types discussed in this chapter. However, SHHP is not required to permit participants 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. SHHP also may limit the number of participants who receive S+C assistance in these housing types and cannot require participants to use a particular housing type. No special funding is provided for special housing types.

- Participants will be permitted to use any special housing types needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the participant owns the home and leases the space [24 CFR 982.601].

This chapter consists of the following five parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the S+C program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. S+C regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing S+C assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. FAIR MARKET RENT, UTILITY ALLOWANCE, AND HAP CALCULATION

The FMR for SRO housing is 75 percent of the 0-bedroom FMR amount on SHHP's FMR schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO FMR amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].
- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the

SRO unit. They may not be located below grade unless the SRO units are located on that level.

- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by SHHP, a household member or live-in aide may reside with the elderly person or person with disabilities. SHHP 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 (see Chapter 3).

When providing S+C assistance in congregate housing, a separate lease and HAP contract are executed for each assisted participant, and the standard form of the HAP contract is used.

15-II.B. FAIR MARKET RENT, UTILITY ALLOWANCE, AND HAP CALCULATION

The Fair Market Rent (FMR) for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), SHHP must use the FMR for a 0-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), SHHP must use the 1-bedroom FMR.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable FMR minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating S+C assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by SHHP, a live-in aide may live in the group home with a person with disabilities (see Chapter 3). SHHP must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing S+C assistance in a group home, a separate lease and HAP contract is executed for each assisted participant, and the standard form of the HAP contract is used.

15-III.B. FAIR MARKET RENT, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the participant unit size for an assisted occupant of a group home must be a 1-bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The FMR used to calculate the HAP is the lower of the FMR for the participant unit size or the pro-rata share of the FMR for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the FMR minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro-rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, SHHP should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back-ups
 - Sewage hazards
 - Mud slides
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation, and
 - Fire hazards.

PART IV: SHARED HOUSING
[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted participant and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted participant.

An assisted participant may share a unit with other persons assisted under the S+C program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted participant.

If approved by SHHP, a live-in aide may reside with the participant to care for a person with disabilities. SHHP 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 (see Chapter 3).

When providing S+C assistance in shared housing, a separate lease and HAP contract are executed for each assisted participant, and the standard form of the HAP contract is used.

SHHP does not approve shared housing contracts for owners who have a participant relationship with the participant. (i.e. parents, boyfriend/girlfriend, ex-husband/wife, in-laws etc).

15-IV.B. FAIR MARKET RENT, UTILITY ALLOWANCE AND HAP CALCULATION

The FMR for a participant in shared housing is the lower of the FMR for the participant unit size or the pro-rata share of the FMR for the shared housing unit size.

The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted participant in the private space by the total number of bedrooms in the unit.

The HAP for a participant in shared housing is the lower of the FMR minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted participant living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

The rents paid for participants living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted participant must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, SHHP should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

SHHP may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted participant under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Participant's Household:* Facilities available to the assisted participant, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted participant must contain at least one bedroom for each two persons in the participant. The number of bedrooms in the private space of an assisted participant must not be less than the participant unit size. A 0-bedroom or 1-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to rental assistance for a participant that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing S+C assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. FAIR MARKET RENT, UTILITY ALLOWANCE AND HAP CALCULATION

The FMR and utility allowance are determined according to regular S+C program requirements.

The HAP for a cooperative housing unit is the lower of the FMR minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the participant for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Shelter Plus Care Advisory Committee

Part II: Administrative Fees. This part describes SHHP's policies with regard to oversight of expenditures of subsidy and administrative funds.

Part III: Setting Program Standards and Schedules. This part describes what Fair Market Rents are, and how they are updated, as well as how utility allowances are established and revised.

Part IV: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part V: Owner or Participant Debts to SHHP. This part describes policies for recovery of monies that SHHP has overpaid on behalf of participants, or to owners, and describes the circumstances under which SHHP will offer repayment agreements to owners and participants. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part VI: Record-Keeping and Reporting. All aspects of the program involve certain types of record-keeping and reporting. This part outlines the privacy rights of applicants and participants and record retention policies SHHP will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes SHHP's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving S+C assistance.

Part VIII: Notification Regarding Applicable Provisions of the Violence Against Women Reauthorization Act of 2005 (VAWA). This part describes SHHP's policies for informing assisted tenants of their rights under this law including their right to confidentiality and the limits thereof.

SHHP conforms to all HUD Shelter Plus Care regulations (24 CFR 582.) Where there is no clear rule under HUD's Shelter Plus Care regulations, SHHP uses HUD/SHHP's HCVP existing regulations and policies.

PART I: SHELTER PLUS CARE ADVISORY COMMITTEE

A single advisory committee will assist with proposed policy review, program enhancement, and development of best practices for the project. Not less than one or more than three representatives from a service agency (totaling one vote) will participate on the Advisory Committee, which will be chaired by the SHHP S+C Program Administrator.

The purpose of the Advisory Committee is to provide feedback on policy decisions and to provide a forum for training, networking, problem-solving, and on-going evaluation of the project. The Advisory Committee will meet not less than twice per year.

In addition, members of the Shelter Plus Care Advisory Committee are also welcome at the SHHP Coordinator Advisory Network (CAN) meetings, which meet several times per year for the purpose of networking and best practice sharing. These meetings are open to housing coordinators working with any SHHP housing assistance programs.

SHHP and the local service agencies will actively recruit participation from consumers. The goal is to have a minimum of one consumer representative on the committee.

PART II: ADMINISTRATIVE FEES

Up to eight percent (8%) of the grant award may be used to pay the costs of administering the housing project per HUD. All agencies will receive a percentage of that administrative fee (at least 4% of the grant award) based on the Memorandum of Understanding between SHHP and the service agency. Administrative fees are generally paid out to agencies on a quarterly basis. Covering the HAP/UAP payments is always the top priority if grant funds become sparse and a grant cannot attrition down quick enough. The S+C program does not fall under SHHP's Housing Choice Voucher incentive program.

Administrative activities include examining participant income, expenses and family composition, providing housing information and assistance, inspecting units for compliance with HQS, and receiving new participants. Costs of administering supportive services, preparing the grant application, auditing, and reporting, are not eligible for administrative funding.

PART III: SETTING PROGRAM STANDARDS AND SCHEDULES

16-III.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the S+C program's regulations recognize that some flexibility is required to allow SHHP to adapt the program to local conditions. This part discusses how SHHP establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual households are provided in other chapters. The schedules and standards discussed here include:

- ***Fair Market Rents***, which dictate the maximum subsidy a participant can receive (application of the FMRs is discussed in Chapter 6); and
- ***Utility Allowances***, which specify how a participant's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).
 - Copies of the FMR and utility allowance schedules are available for review in SHHP's offices during normal business hours and on SHHP's web site.
 - Participants, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.
 - SHHP will maintain documentation to support its annual review of FMRs and utility allowance schedules. This documentation will be retained for at least 3 years.

16-III.B. FAIR MARKET RENTS [24 CFR 982.503; HCV GB, Chapter 7]

The FMR sets the maximum subsidy payment a participant can receive from SHHP each month. FMRs are published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The maximum payment for a unit subsidized by the SHHP S+C program is the published FMR for each unit size unless an exception is made.

Updating Fair Market Rents

Changes to FMR amounts will be effective on November 1st of every year.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to SHHP's FMRs generally are not permitted. However, an exception may be made as a reasonable accommodation for a participant that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect SHHP's FMR schedule.

The rent for a S+C assisted unit may not exceed the reasonable rent for that area. But while the rents for SRA, TRA, or PRA units may be set at the reasonable rent level even if it is higher than the HUD Fair Market Rent limits, the rent allowed under the SRO component may not exceed the HUD FMR limit for that area even if the reasonable rent is found to be higher. Keep in mind that leasing units at rents higher than the FMR may cause problems down the line since the original S+C grant amounts are calculated by multiplying the number of units to be assisted by the FMR, not the "reasonable rent." Local service agencies should use the FMR's as a guide. If a participant needs to live in a unit that is above the FMR, but is rent reasonable, the housing coordinator must submit to SHHP the rent reasonableness form along with a written explanation of why a unit within the FMR was not available and/or why the tenant needs to live in a particular location which is above the FMR. The following must be taken into account: location, size, type, quality, amenities, facilities, and management and maintenance of each unit. SHHP will determine whether or not to approve the unit and whether or not the grant funds are sufficient to support the increased per unit cost.

When needed as a reasonable accommodation, SHHP may make an exception to the FMR without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. SHHP may request HUD approval for an exception to the FMR for a particular participant if the required amount falls between 110 and 120 percent of the FMR.

- A participant that requires a reasonable accommodation may request a higher FMR at the time the Request for Tenancy Approval (RFTA) is submitted. The participant must document the need for the exception. In order to approve an exception, or request an exception from HUD, SHHP must determine that:
 - There is a shortage of affordable units that would be appropriate for the participant; and
 - The rent for the unit is reasonable.

16-III.C. UTILITY ALLOWANCES [24 CFR 982.517]

SHHP must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, SHHP must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, SHHP must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to SHHP about establishing utility allowance schedules.

Air Conditioning

The majority of housing units in the SHHP's jurisdiction does not include central air-conditioning and is not wired for tenant-installed air conditioners. Therefore, SHHP has not included an allowance for air-conditioning in its utility allowance schedules.

Reasonable Accommodation

S+C program regulations require a PHA to approve a utility allowance amount higher than shown on SHHP's schedule if a higher allowance is needed as a reasonable accommodation for a household member with a disability. For example, if a household member with a disability requires such an accommodation, SHHP will approve an allowance for air-conditioning, even if SHHP has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

SHHP must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

SHHP must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART IV: INFORMAL REVIEWS AND HEARINGS

16-IV.A. OVERVIEW

When SHHP makes a decision that has a negative impact on a participant, the participant is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

SHHP is required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-IV.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

SHHP must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on SHHP waiting list
- Denying or withdrawing a RAD
- Refusing to enter into a HAP contract or approve a lease
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by SHHP
- General policy issues or class grievances
- A determination of the participant unit size under SHHP subsidy standards
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to household size or composition

SHHP will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on SHHP waiting list; denying or withdrawing a RAD; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

SHHP must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for SHHP decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

- A request for an informal review must be made in writing and delivered to SHHP either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of SHHP's denial of assistance.
- Except as provided in Section 3-III.G, SHHP must schedule and send written notice of the informal review within 10 business days of the participant's request.

Informal Review Procedures [24 CFR 982.554(b)]

- The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.
- The applicant must be provided an opportunity to present written or oral objections to the decision of SHHP.
- The person conducting the review will make a recommendation to SHHP, but SHHP is responsible for making the final decision as to whether assistance should be granted or denied.

Informal Review Decision [24 CFR 982.554(b)]

SHHP must notify the applicant of SHHP's final decision, including a brief statement of the reasons for the final decision.

- In rendering a decision, SHHP will evaluate the following matters:
 - Whether or not the grounds for denial were stated factually in the Notice.
 - The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
 - The validity of the evidence. SHHP will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, SHHP will uphold the decision to deny assistance.
 - If the facts prove the grounds for denial, and the denial is discretionary, SHHP will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

SHHP will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

- If the decision to deny is overturned as a result of the informal review, processing for admission will resume.
- If the participant fails to appear for their informal review, the denial of admission will stand and the participant will be so notified.

16-IV.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

SHHP must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant. A participant is defined as a family that has been admitted to SHHP's S+C program and is currently assisted in the program. The purpose of the informal hearing is to consider whether SHHP's decisions related to the participant's circumstances are in accordance with the law, HUD regulations and PHA policies.

SHHP is not permitted to terminate a participant's assistance until the time allowed for the participant to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which SHHP must give a participant an opportunity for an informal hearing are as follows:

- A determination of the participant's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from SHHP utility allowance schedule
- A determination of the participant unit size under SHHP's subsidy standards
- A determination that a certificate program participant is residing in a unit with a larger number of bedrooms than appropriate for the participant unit size under SHHP's subsidy standards, or SHHP determination to deny the participant's request for exception from the standards
- A determination to terminate assistance for a participant because of the participant's actions or failure to act

- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by SHHP
- General policy issues or class grievances
- Establishment of SHHP schedule of utility allowances for participants in the program
- A PHA determination not to approve an extension or suspension of a RAD term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of participant size
- A determination by SHHP to exercise or not to exercise any right or remedy against an owner under a HAP contract
 - SHHP will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

Notice to the Participant [24 CFR 982.555(c)]

When SHHP makes a decision that is subject to informal hearing procedures, SHHP must inform the participant of its right to an informal hearing at the same time that it informs the participant of the decision.

For decisions related to the participant's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the participant unit size, SHHP must notify the participant that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the participant's assistance, or the denial of a participant's request for an exception to SHHP's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the participant does not agree with the decision, the participant may request an informal hearing on the decision, and a statement of the deadline for the participant to request an informal hearing.

- In cases where SHHP makes a decision for which an informal hearing must be offered, the notice to the participant will include all of the following:

- The proposed action or decision of SHHP.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the participant's right to an explanation of the basis for SHHP's decision.
- A statement that if the participant does not agree with the decision the participant may request an informal hearing of the decision.
- A deadline for the participant to request the informal hearing.
- A copy of SHHP's hearing procedures will also be available upon request.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, SHHP must proceed with the hearing in a reasonably expeditious manner upon the request of the participant.

- A request for an informal hearing must be made in writing and delivered to SHHP either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of SHHP's decision or notice to terminate assistance.
- SHHP must schedule and send written notice of the informal hearing to the participant within 10 business days of the participant's request.
- The participant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the participant. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, SHHP may request documentation of the "good cause" prior to rescheduling the hearing.
 - If the participant does not appear at the time stated in the letter of notification, the PHA will not reschedule the hearing unless needed as a reasonable accommodation for a person with a disability.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and SHHP are permitted pre-hearing discovery rights. The participant must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The participant must be allowed to copy any such documents at their own expense. If SHHP does not make the document available for examination on request of the participant, SHHP may not rely on the document at the hearing.

SHHP hearing procedures may provide that SHHP must be given the opportunity to examine at SHHP offices before the hearing, any participant documents that are directly relevant to the hearing. SHHP must be allowed to copy any such document at SHHP's expense. If the participant does not make the document available for examination on request of SHHP, the participant may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

- The participant will be allowed to copy any documents related to the hearing at a cost of \$.10 per page. The participant must request discovery of PHA documents no later than 12:00 p.m. three business days prior to the scheduled hearing date.
- SHHP must be given an opportunity to examine at SHHP offices before the hearing any participant documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, SHHP will automatically mail a letter to the participant scheduling the hearing and informing them that all documents that the participant intends to present or utilize at the hearing must be provided to SHHP. The participant must make the documents available no later than 12:00 pm three business days prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At his/her own expense, the participant may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by SHHP, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative(s) and any witnesses for SHHP
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by SHHP as a reasonable accommodation for a person with a disability

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with SHHP's hearing procedures [24 CFR 982.555(4)(ii)].

- The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.
- All informal hearings will be limited to 45-minutes.

Evidence [24 CFR 982.555(e)(5)]

SHHP and the participant must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

- Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.
 - **Oral evidence:** the testimony of witnesses
 - **Documentary evidence:** a writing that is relevant to the case, for example, a letter written to SHHP. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
 - **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
 - **Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either SHHP or the participant fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the participant.

In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Participant:** The hearing officer will determine if the reasons for SHHP's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if SHHP and the participant were given the opportunity to examine any relevant documents in accordance with PHA policy.

- **PHA Evidence to Support SHHP's Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support SHHP's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of SHHP will be overturned.

The hearing officer will issue a written decision to the participant and SHHP no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of SHHP representative; and
- Name of participant representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold SHHP's decision.

Order: The hearing report will include a statement of whether SHHP's decision is upheld or overturned. If it is overturned, the hearing officer will instruct SHHP to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct SHHP to restore the participant's program status.

Procedures for Rehearing or Further Hearing

The hearing officer may ask the participant for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the participant misses

an appointment or deadline ordered by the hearing officer, the action of SHHP will take effect and another hearing will not be granted.

PHA Notice of Final Decision [24 CFR 982.555(f)]

SHHP is not bound by the decision of the hearing officer for matters in which SHHP is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If SHHP determines it is not bound by the hearing officer's decision in accordance with HUD regulations, SHHP must promptly notify the participant of the determination and the reason for the determination.

16-IV.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a participant may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a participant may not be terminated or denied while SHHP hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a household member, issued in accordance with the USCIS appeal process or SHHP informal hearing process, does not preclude the participant from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the participant:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The participant may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the participant has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the participant has a right to request an informal hearing with SHHP either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When SHHP receives notification that the USCIS secondary verification failed to confirm eligible immigration status, SHHP must notify the participant of the results of the USCIS verification. The participant will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the participant in writing directly to the USCIS. The participant must provide SHHP with a copy of the written request for appeal and the proof of mailing.

- SHHP will notify the participant in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.
- The participant must provide SHHP with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The participant must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the participant is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the participant, with a copy to SHHP, of its decision. When the USCIS notifies SHHP of the decision, SHHP must notify the participant of its right to request an informal hearing.

- SHHP will send written notice to the participant of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the participant's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the participant may request that SHHP provide a hearing. The request for a hearing must be made either within 30 days of receipt of SHHP notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicants are described below.

Informal Hearing Officer

SHHP must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The participant must be provided the opportunity to examine and copy at the participant's expense, at a reasonable time in advance of the hearing, any documents in the possession of SHHP pertaining to the participant's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

- The participant will be allowed to copy any documents related to the hearing at a cost of \$.10 per page. The participant must request discovery of PHA documents no later than 12:00 p.m. two business days prior to the hearing.

The participant must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The participant must also be provided the opportunity to refute evidence relied upon by SHHP, and to confront and cross-examine all witnesses on whose testimony or information SHHP relies.

Representation and Interpretive Services

The participant is entitled to be represented by an attorney or other designee, at the participant's expense, and to have such person make statements on the participant's behalf.

The participant is entitled to arrange for an interpreter to attend the hearing, at the expense of the participant, or SHHP, as may be agreed upon by the two parties.

Recording of the Hearing

The participant is entitled to have the hearing recorded by audiotape. SHHP will not provide a transcript of an audio taped hearing. SHHP reserves the right to record any informal hearing via audiotape.

Hearing Decision

SHHP must provide the participant with a written final decision, based solely on the facts presented at the hearing, within 10 business days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the participant may request that SHHP provide a hearing. The request for a hearing must be made either within 30 days of receipt of SHHP notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participants whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

SHHP must retain for a minimum of 5 years the following documents that may have been submitted to SHHP by the participant, or provided to SHHP as part of the USCIS appeal or SHHP informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART V: OWNER OR PARTICIPANT DEBTS TO SHHP

16-V.A. OVERVIEW

This part describes SHHP's policies for recovery of monies that have been overpaid on behalf of participants, or to owners. [24 CFR 982.54]

- When an action or inaction of an owner or participant results in the overpayment of housing assistance, SHHP holds the owner or participant liable to return any overpayments to SHHP.
- SHHP will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.
- When an owner or participant refuses to repay monies owed to SHHP, SHHP will utilize other available collection alternatives including, but not limited to, the following:
 - Collection agencies
 - Small claims court
 - Civil law suit
 - State income tax set-off program

16-V.B. REPAYMENT POLICY

Owner Debts to SHHP

- Any amount due to SHHP by an owner must be repaid by the owner within 30 days of SHHP determination of the debt.
- If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, SHHP will reduce the future HAP payments by the amount owed until the debt is paid in full.
- If the owner refuses to repay the debt, SHHP may ban the owner from future participation in the program and pursue other modes of collection.

Participant Debts to SHHP

- Any amount due to SHHP by an S+C participant must be repaid by the participant. SHHP will offer to enter into a repayment agreement in accordance with the policies below.
- If the participant refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, SHHP will terminate the assistance upon notification to the participant and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to SHHP in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

- Participants will not be required to make a down payment on the amount owed prior to entering into a repayment agreement with the PHA.

Payment Thresholds

- Except in the cases of reasonable accommodation, the following will apply:
 - Amounts between \$3,000 and the Federal or State threshold for criminal prosecution must be repaid within 36 months.
 - Amounts between \$2,000 and \$2,999 must be repaid within 30 months.
 - Amounts between \$1,000 and \$1,999 must be repaid within 24 months.
 - Amounts under \$1,000 must be repaid within 12 months.

Execution of the Agreement

- The head of household, spouse/co-head and/or other adult household members must sign the repayment agreement.

Due Dates

- All payments are due by the close of business on the 1st day of the month and considered late after the 5th of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.

Non-Payment

- If the participant misses two payments, the repayment agreement it will be considered in default and SHHP will terminate assistance upon written notification to the participant.
- If a participant falls more than 2 months behind and receives 2 termination notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and SHHP will terminate assistance upon written notification to the participant.

No Offer of Repayment Agreement

- SHHP will not enter into a repayment agreement if there is already a repayment agreement in place with the participant or owner, or the amounts owed by the participant or owner exceed the Federal or State threshold for criminal prosecution.

PART VI: RECORD KEEPING AND REPORTING

16-VI.A. OVERVIEW

SHHP must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, SHHP must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

SHHP must ensure that Annual Progress Reports (APRs) are submitted on all S+C grants and that all grants are renewed so that funding can continue for this program.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, SHHP must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the participant.

In addition, SHHP must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible participant and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a participant's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

SHHP must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

- All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.
- PHA staff will not discuss personal participant information unless there is a business reason to do so. Inappropriate discussion of participant information or improper disclosure of participant information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or SHHP may release the information collected.

Criminal Records

SHHP may only disclose the criminal conviction records, which SHHP receives from a law enforcement agency to officers or employees of SHHP, or to authorized representatives of SHHP who have a job-related need to have access to the information [24 CFR 5.903(e)].

SHHP must establish and implement a system of records management that ensures that any criminal record received by SHHP from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

SHHP must establish and implement a system of records management that ensures that any sex offender registration information received by SHHP from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to SHHP action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

- SHHP will establish a second tenant file for any criminal records that are necessary to be maintained. This file will be kept in a separate location where only authorized staff will have access.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. SHHP may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If SHHP receives a verification document that provides such information, SHHP should not place this information in the tenant file. SHHP should destroy the document.

Homeless Management Information System (HMIS)

The local service agency must utilize their local Continuum of Care Colorado HMIS system for intake, service provision, program exit data collection as required by HUD and SHHP. Data Entry must be current within 5 days of intake, exit, and service provision. The local service agency must sign all required Colorado HMIS agreements and adhere to all Colorado HMIS policies and procedures. These documents are available from the system administrator for each Continuum of Care.

16-VI.D. REPORTING REQUIREMENTS

Match Reports: All participating agencies will calculate and document services provided to S+C participants to meet the matching service dollars requirement of this grant.

The local service agency will provide SHHP with annual reports documenting the supportive services match provided by the local service agency and any other service providers in the community. The match reports will contain information relevant to services and in-kind match provided as the service provider's contribution to the project. Match reports are due to SHHP no later than one month after the end of each grant's operating year. The local service agency must maintain individual match records on every S+C program participant and must submit the summary report to SHHP.

Progress Reports: The local service agency will provide the SHHP Program Administrator with annual reports on the progress of the program using the local HMIS system. The information necessary for the HUD Annual Progress Reports, Logic Models, and any other reporting requirements will be due within thirty (30) days following the end of the operating year of the project.

Additional Reporting Requirements

Other information may be needed by SHHP for reporting and program evaluation such as the number of participants, the status of each participant, the location of units, the mental status/progress of the participants, and any other relevant information. These reports must be generated by the local Continuum of Care CO HMIS system.

16-VI.E. Monitoring/Quality Assurance Reviews

SHHP staff will review files, assess program and processes, provide technical assistance, and participate in evaluation of the project. SHHP will make recommendations for necessary program adjustments and shall establish a procedure for corrective action to assure compliance by service providers with federal regulations and SHHP policy. SHHP may conduct on site

reviews or may require the local service agency to send the housing file to SHHP for review. HUD may also conduct such reviews of SHHP S+C program and housing files.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

SHHP has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving S+C assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that SHHP is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

SHHP must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

- SHHP will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

SHHP must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If SHHP obtains names and addresses of environmental intervention blood lead level children from the public health department(s), SHHP must match this information with the names and addresses of participants receiving S+C assistance, unless the public health department performs such a procedure. If a match occurs, SHHP must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, SHHP must also report an updated list of the addresses of units receiving assistance under the S+C program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

- The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the S+C program, on a quarterly basis due to their inability to fund the process needed to compare the data. Therefore, SHHP is not providing such a report.

**PART VIII: NOTIFICATION REGARDING APPLICABLE PROVISIONS OF THE
VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)**

The Violence against Women Reauthorization Act of 2005 (VAWA) requires PHAs to inform assisted tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants. VAWA also requires PHAs to inform owners and managers of their obligations under this law.

This part describes the steps that the PHA will take to ensure that all actual and potential beneficiaries of its Shelter Plus Care program are notified about their rights and that owners and managers are notified of their obligations under VAWA.

PHA Policy

- The PHA will make the information readily available to anyone who requests it.
- A summary of the rights and protections provided by VAWA to Shelter Plus Care program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking (see sample notices in Exhibits 16-1 and 16-2)
- The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2)
- An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the PHA's obligation to keep confidential any information that it receives from a victim unless (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers

16-VIII.A. NOTIFICATION TO PARTICIPANTS [Pub.L. 109-162]

VAWA requires SHHP to notify public housing program participants of their rights under this law, including their right to confidentiality and the limits thereof.

- SHHP will provide all participants with notification of their protections and rights under VAWA at the time of admission and upon request.

- The notice will explain the protections afforded under the law, inform the participant of PHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.
- SHHP will also include in all assistance termination notices a statement explaining assistance termination protection provided by VAWA (see Section 12-II.E).

16-VIII.B. NOTIFICATION TO APPLICANTS

- SHHP will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.
- SHHP will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.G).

16-VIII.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 109-162]

VAWA requires SHHP to notify owners and managers of their rights and responsibilities under this law.

Inform property owners and managers of their screening and termination responsibilities related to VAWA. SHHP may utilize any or all of the following means to notify owners of their VAWA responsibilities:

- As appropriate in day-to-day interactions with owners and managers.
- Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.
- Signs in SHHP lobby and/or mass mailings, which include model VAWA certification forms.

EXHIBIT 16-1: SAMPLE NOTICE TO SHELTER PLUS CARE APPLICANTS AND TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for a S+C RAD, the housing authority cannot deny you rental assistance solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, you cannot be terminated from the S+C program or evicted based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you or terminating your rental assistance if you were the victim of the abuse.

Reasons You Can Be Evicted

You can be evicted and your rental assistance can be terminated if the housing authority or your landlord can show there is an *actual* and *imminent* (immediate) threat to other tenants or employees at the property if you remain in your housing. Also, you can be evicted and your rental assistance can be terminated for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking committed against you. The housing authority and your landlord cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

Your landlord may split the lease to evict a tenant who has committed criminal acts of violence against household members or others, while allowing the victim and other household members to stay in the assisted unit. Also, the housing authority can terminate the abuser's S+C rental assistance while allowing you to continue to receive assistance. If the landlord or housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, your landlord must follow federal, state, and local eviction procedures.

Moving to Protect Your Safety

The housing authority may permit you to move and still keep your rental assistance, even if your current lease has not yet expired. The housing authority may require that you be current on your

rent or other obligations in the Shelter Plus Care program. The housing authority may ask you to provide proof that you are moving because of incidences of abuse.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority and your landlord can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, or stalking. The housing authority you’re your landlord must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority and your landlord are free to extend the deadline.

There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority or your landlord. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the landlord may evict you, and the housing authority may terminate your rental assistance.

Confidentiality

The housing authority and your landlord must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority or your landlord to release the information.
- Your landlord needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority or your landlord to release the information.

If release of the information would put your safety at risk, you should inform the housing authority and your landlord.

VAWA and Other Laws

VAWA does not limit the housing authority’s or your landlord’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a household breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact Susan Niner at 303-866-7353.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines *dating violence* as 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:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate household of that person, or (iii) the spouse or intimate partner of that person.

EXHIBIT 16-2: SAMPLE NOTICE TO SHELTER PLUS CARE OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, or stalking if you can demonstrate that there is an *actual* or *imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking. You cannot hold a victim of domestic violence, dating violence, or stalking to a more demanding standard than tenants who are not victims.

Removing the Abuser from the Household

You may split the lease to evict a tenant who has committed criminal acts of violence against household members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, or Stalking

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, or stalking. You are not required to demand official documentation and may rely upon the victim’s statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

By completing a HUD-approved certification form. The most recent form is HUD-50066.

This form is available at the housing authority, or online at www.hudclips.org.

By providing a statement from a victim service provider, attorney, or medical professional who has helped the victim address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

By providing a police or court record, such as a protective order.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

The tenant provides written permission releasing the information.

The information is required for use in an eviction proceeding, such as to evict the abuser.

Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a household breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

Additional Information

If you have any questions regarding VAWA, please contact Susan Niner.

HUD Notice PIH 2006-42 contains detailed information regarding VAWA's certification requirements. The notice is available at <http://www.hud.gov/offices/adm/hudclips/>.

An overview of VAWA's housing provisions is available at <http://hmis.info/ClassicAsp/documents/March%2016,%202007%20HUD%20Notice%20on%20VAWA.pdf>

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines *domestic violence* to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines *dating violence* as 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:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines *stalking* as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate household of that person, or (iii) the spouse or intimate partner of that person.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
APR	Annual Progress Report
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HMIS	Homeless Management Information System
HQS	Housing quality standards.
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act

LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
RAD	Rental Assistance Document
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2005

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative fee reserve (formerly “operating reserve”). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the participant becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a participant (first day of initial lease term) in a tenant-based program.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

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

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

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

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

Assets. (See Net Household Assets.)

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

Budget authority. An amount authorized and appropriated by the Congress for payment to HAS under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

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

Childcare expenses. Amounts anticipated to be paid by the household for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a household 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.

Citizen. A citizen or national of the United States.

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

Common space. In shared housing: Space available for use by the assisted participant and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

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

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

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the S+C program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

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

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

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

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

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled household member and that are necessary to enable a household member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the household nor reimbursed by an outside source.

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

Disabled person. See Person with Disabilities.

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

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

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

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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

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

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

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

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

Evidence of citizenship or eligible status. The documents that must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

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

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

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

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

Family. Includes but is not limited to the following, and can be further defined in PHA policy.

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

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

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

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See “Disability Assistance Expense.”

HAP contract. Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible participant.

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

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the participant's lease; and (2) An additional payment to the participant if the total assistance payment exceeds the rent to owner.

Housing agency (HA). A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the S+C program.

HUD. The Department of Housing and Urban Development.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed \$5,000.

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

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

Income For Eligibility. Annual Income.

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

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

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

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

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a participant with housing assistance payments under a HAP contract between the owner and the PHA.

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

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

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

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

Match. HUD regulation requiring all S+C programs to provide S+C participants supportive services in an amount equal to or greater than the total rental assistance through the S+C grant.

Medical expenses. Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by

insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

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

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

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of “cooperative.”

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

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

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

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

Non-citizen. A person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

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

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant. An individual or a head of an eligible household that has been admitted to the S+C program and is currently assisted in the program. Participation is effective on the date of the first HAP contract executed by the PHA for the participant (first day of initial lease term).

Participant rent to owner. In the S+C program, the portion of rent to owner paid by the participant.

Participant share. The portion of rent and utilities paid by the participant. For calculation of participant share, see §982.515(a).

Participant unit size. The appropriate number of bedrooms for a participant, as determined by the PHA under the PHA subsidy standards.

Payment standard. The maximum monthly assistance payment for a participant assisted in the S+C program (before deducting the total tenant payment by the participant).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

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

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted participant.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the S+C program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

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

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

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

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

Remaining Member of Tenant Household. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

RAD (Rental Assistance Document). A document issued by a PHA to a participant selected for admission to the Shelter Plus Care program. This document describes the program and the procedures for PHA approval of a unit selected by the participant. The RAD also states obligations of the participant under the program.

Responsible entity. For the public housing and the S+C tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs that assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

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

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted participant. A special housing type: see §982.615 to §982.618.

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

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

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

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, and cooperatives (including mutual housing).

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

Spouse. The marriage partner of the head of household.

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

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

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a participant's RAD after the participant submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the RAD term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called "tolling".

Tenancy Addendum. For the Shelter Plus Care Program, the lease language required by HUD in the lease between the tenant and the owner.

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

Tenant rent to owner. See "Participant rent to owner".

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

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

Unit. Residential space for the private use of a participant. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

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

Utility reimbursement. In the S+C program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the Shelter Plus Care program.

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

Voucher (Housing Choice Voucher). A document issued by a PHA to a participant selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the participant. The voucher also states obligations of the participant under the program.

Rental Assistance Document (RAD) holder. A participant holding a RAD with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. FOR THE FSS PROGRAM (984.103(b)), “welfare assistance” includes only cash maintenance payments from Federal or State programs designed to meet a family’s ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

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