

## Chapter 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

This chapter describes HUD regulations and ECC/HANH policies related to these topics in three parts:

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher 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 ECC/HANH to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

## **PART I: NONDISCRIMINATION**

### **2-I.A. OVERVIEW**

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- **Housing Provisions of the Violence Against Women Act (VAWA) Reauthorization Act of 2022**

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

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

#### ECC/HANH Policy

The state of Connecticut has established creed, ancestry and marital status as protected classes. In addition to the Federal and HUD protections. The state of Connecticut also prohibits discrimination based on income source.

### **2-I.B. NONDISCRIMINATION**

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

ECC/HANH shall not discriminate because of race, color, sex, religion, familial status, marital status, gender identity, sexual orientation, age, disability, income source, or national origin as established by federal and state laws (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.

ECC/HANH will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

ECC/HANH will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher 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 Families and Owners**

ECC/HANH must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, ECC/HANH must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301].

The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

### **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by ECC/HANH or an owner, the family should advise ECC/HANH. HUD requires ECC/HANH to

make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

In addition, ECC/HANH is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304]. Upon receipt of a housing discrimination complaint, ECC/HANH is required to:

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

#### ECC/HANH Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify ECC/HANH either orally or in writing.

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

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

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

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

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

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

ECC/HANH must ensure that persons with disabilities have full access to ECC/HANH's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

#### ECC/HANH Policy

ECC/HANH will ask all applicants and participants if they require any type of accommodation, in writing, on the intake application, reexamination documents, and notices of adverse action by ECC/HANH, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact ECC/HANH staff or the Reasonable Accommodation Manager.”

The family may complete and submit a Reasonable Accommodation request form, or may request a reasonable accommodation orally, and the request will be passed on to the designated staff person.

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

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

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

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

#### **Types of Reasonable Accommodations**

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

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms

- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Allowing an ECC/HANH-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with ECC/HANH staff
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the ECC/HANH range) if ECC/HANH determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with ECC/HANH staff
- Allowing for exceptions to ECC/HANH's payment standards
- Allowing a change in the family's rent due date to correspond with the receipt of the head of household, or spouse or cohead's SSI or SSDI benefits

## **2-II.C. REQUEST FOR A REASONABLE 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 ECC/HANH treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

### ECC/HANH Policy

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

## **2-II.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

ECC/HANH 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 ECC/HANH, or fundamentally alter the nature of the ECC/HANH's HCV operations (including the obligation to comply with HUD requirements and regulations).

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

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

### ECC/HANH Policy

A person can generally expect a response within thirty (30) days after the submission of the reasonable accommodation request. Circumstances that may cause a delay in processing include, but are not limited to: delay in obtaining verification of the need for the reasonable accommodation, or failure of the family to clearly specify the requested accommodation or to provide the name and address of their designated verification source.

A family will be required to resubmit their request for a reasonable accommodation at the time of their annual recertification. The family will also be required to reverify the need for the accommodation at each subsequent recertification to confirm that it remains

An approved reasonable accommodation will not be re-verified by ECC unless the family demonstrates that the accommodation is no longer required for a disability. In such cases, ECC will enter into communications with the Family about the continued need for the accommodation.

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

If ECC/HANH believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, ECC/HANH will notify the family, in writing, of its determination within 10 business days from the date of ECC/HANH's determination of denial.

If ECC/HANH denies a request for an accommodation because there is no relationship,

or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal ECC/HANH's decision through an informal hearing (if applicable) or the grievance process).

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

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

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

### ECC/HANH Policy

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with ECC/HANH 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**

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

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This Administrative Plan describes the key policies that govern the ECC/HANH's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.

- The ECC/HANH Administrative Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

## **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

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

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

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

When reviewing reasonable accommodation requests, ECC/HANH must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to ECC/HANH's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, ECC/HANH 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 HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

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

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

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

#### ECC/HANH Policy

##### *Affirmative Measures for Spanish Speaking LEP Persons*

As a result of ECC/HANH's analysis of (1) the number and proportion of LEP persons serviced or encountered in ECC/HANH's eligible service population, and (2) the frequency with which LEP persons come into contact with ECC/HANH's programs, ECC/HANH has determined that ECC/HANH has particular obligations to ensure communication with Spanish-speaking persons.

Accordingly, it is ECC/HANH's policy that ECC/HANH will provide bilingual Spanish-speaking staff as necessary to provide oral language/interpreter services for Spanish-speaking LEP applicants, program participants, or other members of the public interested in ECC/HANH's services.

ECC/HANH will provide the following vital documents in both English and Spanish:

- Pre-applications and full applications
- Recertification materials

It is ECC/HANH's general policy to communicate effectively with applicants and program participants.

## **2-III.B. ORAL INTERPRETATION**

ECC/HANH will offer competent interpretation services free of charge, upon request, to the LEP person.

### ECC/HANH Policy

ECC/HANH will utilize a language line for telephone interpreter services and in person translation services, when necessary.

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 ECC/HANH. The interpreter may be a family member or friend.

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

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

## **2-III.C. WRITTEN TRANSLATION**

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

### ECC/HANH Policy

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

ECC/HANH will provide written translations of vital documents for each additional 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, ECC/HANH 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, ECC/HANH shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If ECC/HANH 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 ECC/HANH's Housing Choice Voucher program and services.

### ECC/HANH Policy

If it is determined that ECC/HANH serves very few LEP persons, and ECC/HANH has very limited resources, ECC/HANH 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 may be contacted for input into the process.

If ECC/HANH 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.

## PART IV: THE VIOLENCE AGAINST WOMEN ACT (VAWA)

**Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Final Rule, published in the *Federal Register* on November 16, 2016, (81 Fed. Reg. 80724 (November 16, 2016))**

**(VAWA Final Rule) with respect to the Public Housing and Housing Choice Voucher (HCV) programs.**

This notice supersedes HUD Notices PIH 2006-23, 2006-42, and 2007-5.

On March 7, 2013, the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) (VAWA 2013) was signed into law. VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.

On November 16, 2016, HUD published its VAWA Final Rule implementing the requirements of VAWA 2013 through HUD regulations (81 FR80724).

Major changes for the Public Housing, HCV, and PBV programs include:

- Specifies “sexual assault” as a crime covered by VAWA in HUD-covered programs. (See 24 CFR 5.2003.)
- Clarifies that, consistent with HUD’s nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD programs must also be operated consistent with HUD’s Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).)
- Establishes new definitions (e.g., affiliated individual and sexual assault, and others) and revises previously defined terminology (e.g., bifurcate and stalking). (See 24 CFR 5.2003.)
- Establishes new requirements for notification of occupancy rights under VAWA and transmits a model *Notice of Occupancy Rights Under the Violence Against Women Act* (form HUD-5380). (See 24 CFR 5.2005(a).)
- Provides that applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(b)(1).)
- Establishes the requirement to establish an emergency transfer plan, establishes record keeping and reporting requirements, and provides a model *Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* (form HUD-5381), and *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* form (form HUD-5383). (See 24 CFR 5.2005(e).)

- Revises requirements for documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking, and provides a new *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* (form HUD-5382). (See 24 CFR 5.2007.)
- Where the covered housing provider exercises the option to bifurcate a lease and the evicted or terminated tenant was the recipient of assistance at the time of bifurcation, establishes a new requirement for reasonable time periods during which a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may remain in the unit while establishing eligibility under the current housing program or under another covered housing program, or seeking alternate housing. (See 24 CFR 5.2009(b).)
- Revises various HCV, PBV, and public housing regulations from the 2005 reauthorization of VAWA to broadly state that VAWA protections apply, so that all tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights.
- Clarifies that PHAs **may** establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence. (See 24 CFR 960.206(b)(4), and 982.207(b)(4).)
- Establishes new requirements under PBV for a family's right to move as a result of the family, or a member of the family, being or having been the victim of domestic violence, dating violence, dating violence, sexual assault, or stalking. (See 24 CFR 983.261.)

## **The Violence Against Women Reauthorization Act of 2022**

The Violence Against Women Reauthorization Act of 2022 includes new requirements that the U.S. Department of Housing and Urban Development (HUD or the "Department") implement and enforce VAWA's housing rights and ensure that program participants comply with those requirements.

It requires HUD and the Attorney General of the United States to implement and enforce the housing provisions of VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for in the Fair Housing Act (42 U.S.C. 3601-19).

Also, as described in Section V of this notice, VAWA 2022 requires that HUD establish a process to review compliance with the applicable requirements in the housing provisions of VAWA, and to have regulations to govern that process.

HUD also added requirements for the filing and processing of individual VAWA complaints with its Office of Fair Housing and Equal Opportunity (FHEO) and informing HUD's covered housing providers of its authority to investigate potential violations of the applicable requirements in the housing provisions of VAWA.

VAWA is a federal law that protects individuals who are survivors of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, sexual orientation, or gender identity.

VAWA includes protections for survivors who are applying for or residing in covered housing programs.’ On March 15, 2022, President Biden signed into law the Consolidated Appropriations Act of 2022,<sup>2</sup> which included the Violence Against Women Act Reauthorization Act of 2022 (“VAWA 2022”). VAWA 2022 reauthorizes, amends, and strengthens VAWA. The VAWA amendments took effect on October 1, 2022.

The key changes in VAWA 2022 definition in the housing programs.

VAWA 2022 revises the definition of “domestic violence” and adds the definitions of “economic abuse” and “technological abuse.”

The statutory definitions are as follows:

“DOMESTIC VIOLENCE. —The term ‘domestic violence’ includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

(A) is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;

(B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) shares a child in common with the victim; or

(D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.”

“ECONOMIC ABUSE.—The term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—

(A) restrict a person’s access to money, assets, credit, or financial information;

(B) unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or

(C) exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.”

“TECHNOLOGICAL ABUSE—The term ‘technological abuse’ means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or

stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.”

## **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; 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 ECC/HANH) 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 HCV 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 family 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 HCV program, yet an accommodation is needed to provide equal opportunity.

## Chapter 3

### ELIGIBILITY

#### INTRODUCTION

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

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

## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### 3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20 and FR Notice 2/14/23]

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

#### Family

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

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### ECC/HANH Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must notify ECC/HANH if the family's composition changes.

#### Household

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

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

#### Family Breakup [24 CFR 982.315]

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

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, ECC/HANH must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-IX.D of this plan.) In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator’s HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator’s HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher’s turnover.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, ECC/HANH is bound by the court’s determination of which family members continue to receive assistance.

#### ECC/HANH Policy

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

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

In the absence of a judicial decision or an agreement among the original family members, ECC/HANH will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, ECC/HANH will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; (5) the recommendations of social service professionals and (6) which family member was the head of household at the time of initial application.

#### **Remaining Member of a Tenant Family [24 CFR 5.403]**

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

If 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.”

### ECC/HANH Policy

A remaining family member is a family member who remains in the assisted household when the Head of Household is no longer associated with the household. To be considered a remaining family member, the person must be approved by ECC/HANH Voucher Program to be a member of the household at least 60 days prior to the dissolution of the family, death of the Head of Household, or departure of the Head of Household.

Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

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

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

#### ECC/HANH Policy

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

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

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

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

*Spouse* means the marriage partner of the head of household.

#### ECC/HANH Policy

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

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

#### ECC/HANH Policy

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

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

### **3-I.F. DEPENDENT AND MINORS [24 CFR 5.603]**

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

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

## **Joint Custody of Dependents**

### ECC/HANH Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live or have primary residence with the applicant or participant family 50 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, ECC/HANH will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

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

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The 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 head, spouse, or cohead, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

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

#### **Elderly Persons**

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

#### **Near-Elderly Persons**

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

#### **Elderly Family**

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

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

#### **Persons with Disabilities**

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

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

### **Disabled Family**

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent ECC/HANH from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, or from terminating assistance in accordance with the policies in Chapter 12.

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

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

#### ECC/HANH Policy

If the executed lease does not specify a guest policy, then ECC's guest policy will be applied. A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

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 [24 CFR 5.603]**

*Foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

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

Foster children and foster adults who are living with an applicant or who have been approved by ECC/HANH to live with a participant 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].

#### ECC/HANH Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of space standards as described in Section 8-I.F. of this policy.

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

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 space standards according as described in Section 8-I.F. of this policy.

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**

##### ECC/HANH Policy

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

#### **Absent Students**

##### ECC/HANH Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to ECC/HANH 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.

##### ECC/HANH Policy

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

### **Absent Head, Spouse, or Cohead**

#### ECC/HANH Policy

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

### **Family Members 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].

#### ECC/HANH Policy

ECC/HANH will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent.

If the family certifies that the family member is confined on a permanent basis, they may present, and ECC/HANH will consider, any additional documentation or evidence.

If the family member is expected to be temporarily absent for more than 180 calendar days, ECC/HANH may require reverification of the temporary absent status.

ECC/HANH's decision is subject to reasonable accommodation requirements.

### **Return of Permanently Absent Family Members**

#### ECC/HANH Policy

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

ECC/HANH will deny requests to add persons to a household (other than a child by birth, adoption, or court-awarded custody) if it will require ECC/HANH to increase the family's voucher size by more than one bedroom. However, ECC/HANH may approve the addition if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by ECC/HANH. Exceptions will be made on a case-by-case basis.

### **3-I.M. LIVE-IN AIDE**

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

ECC/HANH 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.

The income of a live-in aide is not counted in the calculation of annual income for the family [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. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

#### ECC/HANH Policy

A family's request for a live-in aide ~~must~~ may be made either orally or in writing. ECC will verify the need for a live-in aide with ~~Written verification will be required from a~~ reliable, knowledgeable professional, such as a doctor, social worker, or case worker, unless the disability-related need is apparent or known to ECC/HANH 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~~ may be required to submit a new, written request-subject to ECC/HANH verification-at each biennial/triennial 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.

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

- The live-in aide fails ECC/HANH's screening process as further defined in this chapter;

- 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 ECC/HANH or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

ECC/HANH will generally notify the family of its decision in writing within 30 days of receiving a request for a live-in aide, including all required documentation related to the request. See Chapter 2 for exceptions to this time frame.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

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

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

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

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

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

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

#### Using Income Limits for Eligibility [24 CFR 982.201 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]

#### ECC/HANH Policy

ECC/HANH 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 voucher by ECC/HANH.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

- A low-income family is eligible for assistance under VASH [FR Notice 8/13/24]. See Chapter 19 of this policy for more information.
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HUD permits ECC/HANH to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the ECC/HANH plan and the consolidated plans for local governments within ECC/HANH's jurisdiction.

#### **Using Income Limits for Targeting [24 CFR 982.201]**

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

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

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

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

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

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

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

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

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

#### **ECC/HANH Policy**

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

### ***Eligible Noncitizens***

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

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

### ***Ineligible Noncitizens***

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

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

### **Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request 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 Families [24 CFR 5.514(d), (e), and (f)]**

ECC/HANH 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 ECC/HANH 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 ECC/HANH in accordance with program requirements [24 CFR 5.512(a)].

#### ECC/HANH Policy

ECC/HANH will not provide assistance to a family before the verification of at least one family member.

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

The notice will explain the reasons for the denial of assistance, 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 ECC/HANH. The informal hearing with ECC/HANH 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, the ECC/HANH 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, ECC/HANH 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.

#### ECC/HANH Policy

ECC/HANH will verify the citizenship status of applicants at the time other eligibility factors are determined.

### **3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230; 24 CFR 5.232, and HCV GB, p. 5-13]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886-A, 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.

ECC/HANH 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)].

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

#### **ECC/HANH Policy**

ECC/HANH has established a policy that revocation of consent to access financial records will result in denial of admission.

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

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

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

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

#### **Definitions**

In determining whether and how the new eligibility restrictions apply to a student, the ECC/HANH will rely on the following definitions [FR 4/10/06, p. 18148 FR Notice 9/21/16].

### ***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***

#### ECC/HANH Policy

ECC/HANH will consider a student “independent” from his or her parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

The individual is of legal contract age under state law.

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 or is currently serving on active duty in the Armed Forces for other than training purposes is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence

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 has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If ECC/HANH determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance

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

### ***Institution of Higher Education***

ECC/HANH 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* (see Exhibit 3-2).

### ***Parents***

#### ECC/HANH Policy

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

### ***Person with Disabilities***

ECC/HANH will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

### ***Veteran***

#### ECC/HANH Policy

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.

### ***Vulnerable Youth***

#### ECC/HANH Policy

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

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

### **Determining Student Eligibility**

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

#### ECC/HANH Policy

For any student who is subject to the 5.612 restrictions, ECC/HANH 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 ECC/HANH determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, ECC/HANH 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**

#### ECC/HANH Policy

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

If the student's parents are married and living together, ECC/HANH will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, ECC/HANH will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, ECC/HANH 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, ECC/HANH 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. ECC/HANH 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, ECC/HANH will use the income limits for the jurisdiction in which the parents live.

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

#### **Existing Tenant Search**

Prior to admission to the program, ECC/HANH must search for all household members using the EIV Existing Tenant Search module. ECC/HANH must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified.

ECC/HANH must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

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

#### ECC/HANH Policy

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

#### **Debts Owed to PHAs and Terminations**

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

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

### ECC/HANH Policy

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

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

### EIV Income and ~~Income Validation Tool (IVT)~~ Reports

For each new admission, ECC/HANH is required to review ~~the EIV Income and IVT Reports~~ income information in EIV to confirm and validate family reported income within 120 days ~~of the IMS/PIC submission date of the new admission after the admission information is~~ transmitted to HUD. ECC/HANH must print and maintain copies of the ~~EIV Income and IVT~~ reports in the tenant file and resolve any discrepancies with the family ~~within 60 days of the EIV Income or IVT report dates.~~

## **PART III: DENIAL OF ASSISTANCE**

### **3-III.A. OVERVIEW**

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

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

Denial of assistance includes any of the following:

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

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

HUD rules prohibit denial of 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 a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside ECC/HANH'S jurisdiction under portability. (See Chapter 10.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

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

HUD requires ECC/HANH to deny assistance in the following cases:

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

### ECC/HANH Policy

ECC/HANH will admit an otherwise-eligible family who was evicted from federally assisted housing within the past 3 years for drug-related criminal activity, if ECC/HANH is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by ECC/HANH, or the person who committed the crime, is no longer living in the household.

- ECC/HANH determines that any household member is currently engaged in the use of illegal drugs.

### ECC/HANH Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous 12 months.

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

### ECC/HANH Policy

In determining reasonable cause, ECC/HANH will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. ECC/HANH will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

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

First, assistance may not be provided to any family if the family's net assets exceed [the HUD published asset limitation amount \\$100,000](#) (adjusted annually by HUD).

- [This amount is listed in HUD's current year Inflation-Adjusted Values tables](#)

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

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

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

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

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

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;
  - ECC/HANH defines *not sufficient for the size of the family* as being overcrowded based on space standards in Chapter 8 of this policy.
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by ECC/HANH or owner)

#### ECC/HANH Policy

In general, ECC/HANH defines a *geographic hardship* to include, when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. ECC/HANH will consider circumstantial details a family faces when determining whether a geographic hardship is present.

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

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

#### ECC/HANH Policy

Per the ECC/HANH Rent Simplification Policy, Asset exclusion is raised to \$50,000.00. Increasing the asset exclusion amount allows residents to accumulate more assets before they are calculated as income. Families will self-certify that they do not have assets in excess of \$50,000.00.

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE**

HUD permits, but does not require, ECC/HANH to deny assistance for the reasons discussed in this section.

#### **Criminal Activity [24 CFR 982.553]**

HUD permits, but does not require, ECC/HANH to deny assistance if ECC/HANH 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.

#### ECC/HANH Policy

Except as mandated by federal law, no applicant will be automatically denied because of his or her criminal background.

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community. ECC/HANH has identified particular criminal convictions that may suggest future risk (see below) and thus warrant closer examination of an individual's application.

Applicants with criminal convictions that do not fall into one of the below categories and time periods will be deemed admissible, assuming he or she is otherwise eligible for housing assistance. For any applicant with criminal history that falls into one of the below categories and time periods, ECC/HANH will individually determine whether or not the particular applicant poses a significant level of risk to the safety and well-being of the community and will only deny an applicant after making such a determination. This determination will be based on the totality of the circumstances, as explained by the written criteria provided in Section 3-III.E. Before making a decision to admit or deny

applicants with relevant criminal convictions, the applicant shall be given an opportunity for an in-person individualized review based on accurate information, including notice and opportunity to be heard [hereinafter “further review”]. Individual circumstances and the potential impact on safety of other residents should be taken into account in the decision as outlined below. Should the applicant forgo the opportunity to present additional information during further review, HANH will make its admission decision as outlined in Section 3-III.E absent any additional information.

If the applicant seeks to join a family member’s existing lease, please consult Section 9-III.B., which explains the Community Reunification Program. The Community Reunification Program describes ECC/HANH’s policy of waiving the criminal background screening criteria, with the exception of the HUD mandatory denial of admission, for individuals who seek to join a family member’s existing lease.

Applicants with particular criminal history may wish to apply to the Community Re-entry Pilot Program, which has separate criteria for eligibility (see Section 4-III.B.).

With the exception of applicants for the Department of Mental Health and Addiction Services (DMHAS) supportive housing program or the Community Re-entry Program, which are subject to separate admissions standards. ECC/HANH will make an individualized determination of an applicant’s risk to the safety and well-being of the community, including an opportunity for the applicant to present information during “further review”, for the below criminal activities as applied to all adult household members:

#	TYPE	CRIME CATEGORY	SUBCATERGORY	TIME PERIOD FOR REVIEW
1	Mandatory HUD	Lifetime sex offender registration; Production or manufacture of methamphetamine on the premises of federally assisted housing	Felony Misdemeanor	Review for confirmation of accuracy
2	Crimes Against Persons	Criminal forcible sexual conduct (child molestation, child sexual abuse, child pornography); Terrorism; Homicide, murder, manslaughter; Use of a firearm against a person; Armed robbery offenses; Kidnapping/Abduction/Human Trafficking;	Felony	5 years from date of conviction
3		Assault and battery; Non-forcible sex offenses; Stalking; Domestic Violence	Felony, Misdemeanor	Review if felony within 5 years from date of conviction and misdemeanor within 3 years from date of conviction
4	Crimes Against Society	Possession or sale of illegal firearms	Felony, Misdemeanor	Review
5		Burglary Breaking and Entering Robbery Offenses	Felony, Misdemeanor	Review if felony within 5 years from date of conviction; and misdemeanor within 3 years from date of conviction
6		Any household member has ever been convicted of drug-related criminal activity. Possession with intent to manufacture, sell, distribute or use the drug; Criminal activity that shows a pattern or history of abuse of alcohol, illegal or prescription drugs and narcotics	Felony Misdemeanor	Review if use is within 1 year: Review if felony within 5 years from date of conviction and misdemeanor within 3 year from date of conviction
7	Crimes Against Property	Theft; Stolen Property; Fraud Related offenses	Felony	Review if felony within 5 years from date of conviction

		Destruction of Property VandalismArson		
8	Multiple Offenses	2,3,4,5,6,7	If two of more convictions	Review if two or more convictions are within previous 10 years

A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

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

### ***Misrepresentation and Mistakes***

An applicant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, income, allowances, family composition or rent will result in rejection. Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

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

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

#### **ECC/HANH Policy**

ECC/HANH **will not** deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

ECC/HANH **will** deny assistance to an applicant family if:

The family does not provide information that ECC/HANH or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to ECC/HANH.

Any family member has been evicted from federally-assisted housing in the last five years for any activity other than for activity as described in Sections 3-III.B and 3-III.C, above.

ECC/HANH has ever terminated assistance under the program for any member of the family due to the action or inaction of a household member.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

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

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with ECC/HANH, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward ECC/HANH personnel.

*Abusive or violent behavior towards ECC/HANH 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. Actions or language that can be construed as sexual harassment will be considered abusive 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, ECC/HANH will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, ECC/HANH may, on a case-by-case basis, decide not to deny assistance.

### **3-III.E. SCREENING**

#### **Screening for Eligibility**

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

#### ECC/HANH Policy

ECC/HANH will perform a criminal background check through a contracted private entity that conducts criminal checks of national law enforcement records for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, ECC/HANH may request a fingerprint card and will request information from either the appropriate law enforcement agency or the National Crime Information center (NCIC).

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

#### ECC/HANH Policy

ECC/HANH will perform sex offender registration criminal background check through a contracted private entity that conducts criminal checks of national law enforcement records for every adult household member. ECC/HANH will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

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

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

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

ECC/HANH has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. ECC/HANH has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

#### ECC/HANH Policy

ECC/HANH will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. ECC/HANH 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 ECC/HANH to provide prospective owners with the family's current and prior address (as shown in ECC/HANH's records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits ECC/HANH to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

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

#### ECC/HANH Policy

ECC/HANH 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. ECC/HANH will not provide any additional information to the owner, such as tenancy history or criminal history.

### **3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE**

#### **Evidence [24 CFR 982.553(c)]**

##### ECC/HANH Policy

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

##### ECC/HANH Policy

ECC/HANH 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, sexual assault, 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

- ECC/HANH 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**

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

For other criminal activity, ECC/HANH may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

#### ECC/HANH Policy

Should ECC/HANH's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, ECC/HANH will offer the family the opportunity to remove the ineligible family member from the household as a condition of receiving assistance.

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

For other criminal activity, ECC/HANH will deny admission to the family.

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

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

#### ECC/HANH Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, ECC/HANH will determine whether the behavior is related to the stated disability. If so, upon the family's request, ECC/HANH will determine whether admitting the family as a reasonable accommodation is appropriate. ECC/HANH 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.G. NOTICE OF ELIGIBILITY OR DENIAL**

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

If ECC/HANH 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.

#### ECC/HANH Policy

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

If ECC/HANH uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before ECC/HANH can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. ECC/HANH must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

### ECC/HANH Policy

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

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

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

### **3-III.H. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING AND HUMAN TRAFFICKING**

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

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

### **Notification**

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

### ECC/HANH Policy

ECC/HANH acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under ECC/HANH's policies. Therefore, if ECC/HANH makes a determination to deny assistance to an applicant family, ECC/HANH will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy

of the form HUD-50066. ECC/HANH will request that an applicant wishing to claim protection under VAWA notify ECC/HANH within 10 business days.

## **Documentation**

### ***Victim Documentation [24 CFR 5.2007]***

#### ECC/HANH Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, ECC/HANH will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

### ***Perpetrator Documentation***

#### ECC/HANH Policy

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

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

## 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* mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

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

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; 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 family wishes to receive assistance under the HCV program, the family must submit an application that provides ECC/HANH with the information needed to determine the family's eligibility. HUD requires ECC/HANH to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, ECC/HANH must select families from the waiting list in accordance with HUD requirements and ECC/HANH policies as stated in the Administrative Plan and the Annual Plan.

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

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that ECC/HANH affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1].

Adherence to the selection policies described in this chapter ensures that ECC/HANH will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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

Part IV: VAWA Applicant Waitlist and Transfer Waitlist Preference. This part describes the Violence Against Women Act (VAWA) and how ECC/HANH provides housing protection for people applying for or living in subsidized housing who have experienced domestic violence, dating violence or sexual assault. It also discusses how the VAWA preference is applied.

Part V: Effort to End Homelessness – Homeless Preference/Waiting List Set Asides. This part describes ECC/HANH’s effort to end homelessness and how preferences are applied for families who are experiencing homelessness or near homelessness.

## PART I: THE APPLICATION PROCESS

### 4-I.A. OVERVIEW

This part describes ECC/HANH policies for making applications available, accepting applications, making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes ECC/HANH'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 [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

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

#### ECC/HANH Policy

When opening the waiting list, ECC/HANH will publicly announce the accepting of applications (see Section 4-II-C).

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

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, ECC/HANH initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all information necessary to establish family eligibility and level of assistance needed when the family is selected from the waiting list.

Applicants may apply for the wait list through the ECC/HANH Applicant portal at <https://ecc.myhousing.com>. The applicant may request pick up an application form at the agency offices or to have the application mailed to them.~~If the applicant needs a reasonable accommodation to complete the pre-application, the applicant may contact the Reasonable Accommodation Manager.~~ Application forms can also be obtained at the ECC/HANH website at [www.elmcitycommunities.org](http://www.elmcitycommunities.org) or United Way's 211 Info line at <http://www.cthcvp.org>.

A family may request to pick up an application form at the agency offices or to have the application mailed to them as a reasonable accommodation.

All applications received via mail will be date and time stamped. Mailed applications will be added to the waitlist based on the date and time that they are stamped as received.

Only one application will be accepted per family; duplicate applications will not be accepted and will be discarded.

Applications received after the published deadline date will not be accepted.

Completed applications must be submitted via the Wait List portal. Applications must be complete in order to be accepted by the ECC/HANH for processing.

The Applicant Portal does not allow incomplete applications to be submitted through the portal. If a pre-application submitted in any way other than the portal is incomplete, the ECC/HANH will not accept the application but will instead notify the applicant by mail or email, if applicable, that the application is incomplete and has been denied.

An applicant whose application has been denied for being incomplete or for not meeting the published application criteria will be provided with the opportunity to appeal ECC/HANH's decision that the application was incomplete or for not meeting the published application criteria within 10 business days of the notice of application denial.

#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

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

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

##### **Limited English Proficiency**

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

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

ECC/HANH must accept applications from families, when the list is open, unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, ECC/HANH must notify the family in writing [24 CFR 982.201(f)]. Where the family is eligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

##### **Ineligible for Placement on the Waiting List**

###### ECC/HANH Policy

The Applicant Portal does not allow incomplete applications to be submitted. If an application is incomplete, the applicant will not be able to submit the application until the application is completed with all required information. If a pre-application submitted in

any way other than the portal is incomplete, ECC/HANH will not accept the application but will instead notify the applicant by mail or email, if applicable, that the application is incomplete and give an opportunity to complete the application.

Applicants will not be screened for ineligibility at the pre-application stage. Screening for ineligibility will occur at the time of tenant selection at the full application stage.

#### **Eligible for Placement on the Waiting List**

##### ECC/HANH Policy

The ECC/HANH HCV wait list will remain open.

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

Applicants will be placed on the waiting list by ranked preference, pending selection (see Section 4-III-C).

## PART II: MANAGING THE WAITING LIST

### 4-II.A. OVERVIEW

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

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

### 4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

ECC/HANH's HCV waiting list must be organized in such a manner to allow ECC/HANH to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

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

- Applicant name;
- Social Security number
- Date of birth
- Applicant address
- Family unit size;
- Amount and annual source of income
- Racial or ethnic designation of the head of household.
- Gender
- Date and time of application;
- Qualification for any local admission preference.

HUD requires a PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

#### ECC/HANH Policy

ECC/HANH will maintain a single waiting list for the standard HCV program. ECC may maintain separate site-based waitlists for each Rental Assistance Demonstration (RAD) project.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program ECC/HANH operates if:

- 1) the other programs' waiting lists are open
- 2) the family qualifies for the other programs

HUD permits, but does not require, that ECC/HANH maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

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

#### ECC/HANH Policy

The ECC/HANH maintains a single HCV waiting list for Tenant Based Vouchers (TBV) and Project Based Vouchers (PBV) and will not merge the waiting list for any other program the ECC/HANH operates.

ECC may maintain a separate site-based waitlist for each RAD project.

### **4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]**

#### **Closing the Waiting List**

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

#### ECC/HANH Policy

ECC/HANH will continuously accept applications through its online portal. ECC/HANH may close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants.

ECC/HANH will keep its waiting list open for priority preferences or a referral based preference waiting list (see below).

Where ECC/HANH has funding criteria that require a specific category of family, ECC/HANH may elect to continue to accept applications from these applicants while closing the waiting list to others. This includes ECC/HANH Special Programs, income targeting and Efforts to End Homelessness TBV and PBV initiatives.

All advertisements will be made in English and other languages as dictated by the needs of the local market area.

When the waiting list is closed, ECC/HANH will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

#### **Reopening the Waiting List**

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

#### ECC/HANH Policy

ECC/HANH will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

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

- Local city newspapers, i.e The New Haven Register
- Neighborhood newspapers, i.e La Voz, The Inner City
- ECC/HANH website, [www.elmcitycommunities.org](http://www.elmcitycommunities.org)
- ECC/HANH social media sites, i.e Facebook, Instagram, other social media
- New Haven's Office on Disabilities
- State of Connecticut website

The notice will contain:

- The dates, times, and the wait list in which the families may apply.
- The system of waiting lists offered by ECC/HANH.
- The programs for which applications will be taken.
- A brief description of the program.
- A statement that Section 8 participants must submit a separate application if they want to apply for Public Housing.
- Limitations, if any, on who may apply.
- The date application intake will be suspended.

The notices will be made in an accessible format and provided as requested in accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) regulations. ECC/HANH will furnish appropriate auxiliary aids and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access the notices.

Notices will be made available in accessible formats for individuals with limited English proficiency, in accordance with HUD's Limited English Proficiency Guidance and 72 Fed. Reg. 2732.

Notices will provide potential applicants with information that includes:

- ECC/HANH's address and telephone number,
- how to submit an application,
- information on eligibility requirements,
- a point of contact who can answer questions,
- any limitations on who may apply, and
- any other information the applicant may need to successfully submit the application.

## ECC/HANH Policy

ECC/HANH's waiting list will always remain open for the following families who have the preferences listed below.

*Note: This is not a preference hierarchy.*

### 1.) Displaced by Government Action

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws, 24 CFR 5.403(b). This preference will be prioritized in the following:

- a. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA).
- b. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons, i.e. Fire Dept, LCI
- c. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

Commented [ER1]: Discuss with the team

### • Displaced by Government Action

- i. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from buildings condemned for health and safety reasons, an including from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA)
- ii. Displacement as the result of a local natural disaster and/or commendation of a property or dwelling for health and safety reasons;
- iii. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or an emergency defined event resulting in the displacement of persons needing housing assistance.

### • ECC - Reasonable Accommodation

Reasonable Accommodation for disability issues under the Fair Housing Act for residents currently residing in an ECC/HANH public housing owned unit who require an accessible unit as a reasonable accommodation where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH public housing owned unit. The reasonable accommodation has been approved via the ECC/HANH Reasonable process. This includes ECC/HANH LIHTC, PBV and RAD/PBV units managed by 3<sup>rd</sup> party entities.

### • ECC - Violence Against Women Act (VAWA)

Violence Against Women Act (VAWA) for ~~applicants on the LIPH waitlist and LIPH ECC/HANH~~ residents who are victims of domestic violence, dating violence, sexual assault or stalking ~~including LIPH residents and applicant families and claiming are claiming~~ protections under the Violence Against Women Act (VAWA).

See the VAWA preference policy for more information.

**Commented [ER2]:** Add new language from 2022 Reauthorization

- **Documented Witness Protection**

For persons or families that are in a documented Witness Protection Program. Documentation to be provided by the appropriate law enforcement agency.

- **Special Circumstances**

An individual or family currently residing in an ECC/HANH owned unit that are in circumstances that present an imminent risk to their life, health or safety, and where Housing Choice Voucher assistance is the primary mechanism for remedying the emergency situation and/or households in other housing emergency circumstances. Only a very limited number of admissions each year will be made under this preference category, based on voucher availability. Special circumstance cases require submission of a written petition by the applicant or advocate along with documentation of the special circumstance and must have the written approval of the President.

- **LIPH Emergency – Health and Safety Dwelling**

Currently residing in an ECC/HANH public housing unit where dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and the transfer to another public housing unit is not available, where necessary repairs cannot be made within a reasonable time, or a unit does not meet the needs of the family. At the President's discretion.

**Commented [ER3]:** Do we want to add this? It's in Chapter 19?

- **~~LIPH-ECC~~ - Crime and Safety**

An individual or family currently residing in an ECC/HANH public housing unit, LIHTC/PBV or RAD/PBV unit who are in a situation involving crime and safety, where transfer of the family to another public housing, LIHTC/PBV or RAD/PBV development does not meet the needs of the family due to other situations involving crime and safety.

- **Homeless**

For individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN) for ~~RAD/PBV~~ or project-based (PBV) developments with homeless requirements. This preference may also apply to tenant-based vouchers TBVs, per the MOU with the CAN.

- **Supportive Housing**

For individuals and families who meet the HUD definition of homeless and are direct referrals for project-based (PBV) or tenant-based (TBV) Efforts to end Homelessness TBV and PBV per the MTW initiatives.

NOTE:

Supportive Housing and Homeless are preferences but are established as separate waiting lists in the ECC/HANH Wait List systems.

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• **Emergency Housing Vouchers**

Families who are applicants/referrals for Emergency Housing Vouchers (EHV)

Commented [ER4]: Do we want to remove?

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

~~ECC/HANH will give public notice by publishing the relevant information in suitable media outlets including the following newspapers, minority publications, and media entities:~~

~~———— New Haven Register, Inner City, The City of New Haven's Office on Disabilities, and the State of Connecticut website.~~

~~The notice will contain:~~

- ~~• When the waiting list will be open;~~
- ~~• The deadline for receipt of applications;~~
- ~~• How and where to apply (see Section 4 I.B);~~
- ~~• The programs for which applications will be taken;~~
- ~~• A brief description of the program;~~
- ~~• ECC/HANH's preferences; and,~~
- ~~• Limitations, if any, on who may apply.~~

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

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

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

ECC/HANH's outreach efforts must comply with fair housing requirements. This includes:

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

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

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

#### ECC/HANH Policy

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

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### ECC/HANH Policy

While the family is on the waiting list, the family must inform ECC/HANH of changes in family size or composition, preference status, or contact information, including current residence, mailing address, email address and phone number.

The changes must be submitted in writing via the ECC/HANH applicant portal or via in person, by mail or by electronic methods such as email. Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

This may occur when applicants on the waiting list, who did not qualify for any preference when they initially applied, experience a change in circumstances that later qualifies them for a preference. The reverse may also occur.

If preference status changes, applicants retain their original date and time of application or application number. If ECC/HANH determines that the applicant does now qualify for a preference, they will be moved up the waiting list in accordance with their preference(s) and their date and time of application/application number and will be informed in writing of how the change in status has affected their position on the waiting list.

~~While the family is on the waiting list, the family must immediately inform the ECC/HANH of changes in contact information, including current residence, mailing address, phone number and family composition. The changes must be submitted in writing.~~

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

HUD requires ECC/HANH to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

~~The primary goal in purging a waiting list is to obtain current information on interested applicants and to remove applicants who are no longer interested in participating in the HCV program.~~

~~Also purging the waiting lists prevents delays in leasing activities.~~

~~The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation (see Chapter 2).~~

##### ECC/HANH Policy

~~The waiting list will be updated as needed to ensure that all applicants and applicants' information is current and timely.~~

~~ECC/HANH will consider the following factors when deciding to purge/update the waiting list and may decide to purge a portion of the Waiting List at a given time.~~

- ~~• The number of applicants expected to be selected within a reasonable time, i.e. 12-24 months~~
- ~~• Removing families who are no longer interested or eligible to participate in the HCV program~~

~~To purge the waiting list, ECC/HANH may send purge letter notifications via the Applicant Portal, electronic or first-class mail to each family on the waiting list to determine whether the family continues to be interested in, and/or to qualify for the HCV program.~~

~~This purge letter will be sent to the last electronic or mailing address, that ECC/HANH has on record for the family. The purge letter will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.~~

~~Applicants must verify and update all the information needed to remain on the waiting list, such as mailing address, phone number, household composition, income, and email address if applicable.~~

The applicant must indicate that they wish to remain on the specific waiting list or if they wish to be removed.

The family's response must be in writing and may be delivered in person or by applicant portal or electronic or first-class mail. Responses should be postmarked or received by ECC/HANH no later than 15 business days from the date of ECC/HANH's letter.

If no response is received by the deadline, the applicant will be removed from all applicable Waiting Lists and a copy of the notice shall be maintained in the file with a note indicating the date and reason for removing the applicant from the Waiting List.

NOTE: Purging of the internal transfer list for residents will be done separately from the external waiting lists for applicants.

The family's response must be in writing and may be delivered in person or by applicant portal or electronic or first-class mail. Responses should be postmarked or received by ECC/HANH, at a minimum, no later than 15 business days from the date of ECC/HANH's letter

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

ECC/HANH may extend the deadline date to respond accordingly by notifying the applicants of such extension.

If the notice is returned by the post office marked undeliverable or with no forwarding address, or if the electronic communication is returned as undeliverable, the applicant will be removed from the waiting list without further notice. A copy of the letter shall be maintained in the file with a note indicating the date and reason for removing the applicant from 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. The address will be updated accordingly in the ECC/HNH electronic wait list system. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice. The returned mail must be filed in the file.

When a family is removed from the waiting list during the purge process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent ECC/HANH from making an eligibility determination; therefore, no informal hearing is required.

The removal must be documented in the file. A copy of the original letter should be included in the file with a note indicating the date and reason for the removal.

If a family is removed from the waiting list for failure to respond, ECC/HANH may reinstate the family if the lack of response was due to ECC/HANH error, or to circumstances beyond the family's control to include but limited to, hospitalization, delayed mail delivery, or other reasonable accommodation circumstances.

Due to the length of the waiting list, it may not be cost effective to purge the entire waiting list at one time. ECC/HANH will have the discretion to purge a portion of the waiting list in order to have current information on those applicant families that may be likely to reach the top of the waiting list in the next 12 months.

ECC/HANH may decide to conduct a purge with in-house staff or contracting out the service to complete the function.

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to an ECC/HANH request for information or updates, and ECC/HANH determines that the family did not respond because of the family member's disability, ECC/HANH must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

### **Purging the Waiting List**

~~The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to an ECC/HANH request for information or updates, and ECC/HANH determines that the family did not respond because of the family member's disability, ECC/HANH must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].~~

~~The primary goal in purging a waiting list is to obtain current information on interested applicants and to remove applicants no longer interested in participating in the program. Also purging the waiting lists prevents delays in leasing activities.~~

#### ECC/HANH Policy

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

~~ECC/HANH will consider the following factors when deciding to purge/update the waiting list and may decide to purge a portion of the Waiting List at a given time:~~

- ~~● The number of applicants expected to be selected within a reasonable time, 12-24 months~~
- ~~● Removing families who are no longer interested or eligible to participate in the HCV program~~

~~To purge the waiting list, ECC/HANH may send purge letter notifications via the Applicant Portal, electronic or first-class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the HCV program.~~

The purge letter will be sent to the last mailing address that ECC/HANH has on record for the family. The purge letter will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

Applicants must verify and update all the information needed for remaining on the applicable waiting list. The applicant must indicate that they wish to remain on the specific waiting list or if they wish to be removed.

The family's response must be in writing and may be delivered in person or by applicant portal, first class or electronic. Responses should be postmarked or received by ECC/HANH not later than 15 business days from the date of ECC/HANH's letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice. A copy of the letter shall be maintained in the file with a note indicating the date and reason for removing the applicant from the Waiting List.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The address will be updated accordingly. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice. The returned mail must be filed in the file.

When a family is removed from the waiting list during the purge process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent ECC/HANH from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the waiting list for failure to respond, ECC/HANH may reinstate the family if the lack of response was due to ECC/HANH error, or to circumstances beyond the family's control to include but not limited to, hospitalization, delayed mail delivery, or other reasonable accommodation circumstances.

The removal must be documented in the file. A copy of the original letter should be included in the file with a note indicating the date and reason for the removal.

Due to the length of the waiting list, it may not be cost effective to purge the entire waiting list at one time. ECC/HANH will have the discretion to purge a portion of the waiting list in order to have current information on those applicant families that may be likely to reach the top of the waiting list in the next 12 months.

ECC/HANH may to conduct a purge with in-house staff or contracting out the service to complete the function.

## **Removal from the Waiting List**

### ECC/HANH Policy

ECC/HANH will remove an applicant from the waiting list upon request from the applicant family. In such cases no informal hearing is required. Such requests must be submitted in writing.

If at any time an applicant family is on the waiting list, the ECC/HANH determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

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

A family may also be removed from the waiting list if the family fails to respond to ECC/HANH's written invitation to attend an eligibility appointment.

## **PART III: SELECTION FOR HCV ASSISTANCE**

### **4-III.A. OVERVIEW**

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

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

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

### **4-III.B. SELECTION AND HCV FUNDING SOURCES**

#### **Regular HCV Funding**

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

#### **Special Admissions [24 CFR 982.203]**

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

#### **Targeted Funding [24 CFR 982.204(e)]**

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

#### **Emergency Housing Vouchers**

The American Rescue Plan (ARP) of 2021, section 3202 created the Emergency Housing Vouchers for individuals and families who are experiencing homelessness; at risk of experiencing homelessness; fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing stability. ECC was allocated 37 EHV effective July 1, 2021.

After September 30, 2023, ECC/HANH may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or has ended. All referrals must come through the Continuum of Care Coordinated (CoC) Entry system (New Haven Alliance Coordinated Access Network) or from a Victims Services Provider.

The CoC maintains the waitlist for this program by prioritizing individuals and families for EHV assistance, determining the homelessness eligibility, and refers individuals and families through the CoC's coordinated entry system.

Families referred by the CoC may receive EHV program funded housing support services including: supporting individuals and families in processing voucher applications, supporting the housing search process, and planning for and coordinating the delivery of supportive services to support the housing stability of EHV participants. ~~(see Chapter 20, Special Purpose Vouchers)~~

### **Direct Rental Assistance Program**

The Direct Rental Assistance (DRA) program would subsidize directly to participating HCV families, rather than to landlords. The family would then use the funds to pay their full rent to the landlord. This model, being explored by the U.S. Department of Housing and Urban Development (HUD), aims to streamline the program, give families more autonomy, and potentially reduce administrative burdens and market pressures that deter landlords from participating in the traditional HCV program

Households selected from existing voucher waitlists would be offered the opportunity to receive either a traditional voucher (funded by HUD) or a monthly payment for the equivalent value of the voucher (funded by philanthropy).

- Households selecting the DRA subsidy would receive funds by direct deposit from ECC/HANH or similar entity. Each household would then be responsible for paying the full rent to their landlord.
- ECC/HANH will calculate the DRA subsidy using a method similar to the one used for the HCV subsidy. ECC/HANH would subtract the tenant's contribution (30 percent of their income) from a rent standard (such as the Fair Market Rent). The DRA subsidy would be capped at the gross rent for the DRA recipient's chosen unit. This subsidy calculation would ensure that the assistance is aligned with the recipients' housing needs while also empowering and incentivizing them to select less expensive housing.
- ECC/HANH will measure household income and calculate the tenant total payment (TTP) at enrollment and again every 2 years thereafter. During that 2-year reexamination period, the TTP would not increase, but households could request an interim reexamination if their income declines.
- Biennial income reexaminations should reduce administrative burden and encourage households to increase their earnings.
- DRA will limit interactions between the landlord and ECC/HANH. There would be no Housing Assistance Payment (HAP) contract between the landlord and ECC/HANH.

The tenant would bear primary responsibility for inspecting the unit and assessing housing quality using a ECC/HANH provided checklist. After the tenant moves into a unit, ECC/HANH could coordinate with the tenant to arrange a remote video inspection or conduct a full in-person inspection.

● DRA recipients would be required to provide ECC/HANH with a copy of their lease. To remain eligible for the program, they must notify ECC/HANH prior to moving out of the unit. If their gross rent changes, the PHA will recalculate their DRA subsidy

#### 4-III.C. SELECTION METHOD

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

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

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

##### ECC/HANH Policy

The ECC/HANH offers preferences to families in the below stated order.

##### **1-2.) Displaced by Government Action**

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following:

a-d. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA).

b-e. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons. i.e. Fire Dept, LCI

e-f. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

##### **2-3.) ECC - Reasonable Accommodation - LPH**

Reasonable Accommodation for disability issues under the Fair Housing Act for

**Commented [ER5]:** Refer to earlier section re preference

**Commented [ER6]:** Discuss with the team

residents currently residing in an ECC/HANH public housing unit who require an accessible unit as a reasonable accommodation where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH public housing or RAD/PBV or PBV unit.

#### **3.4.) ECC - Violence Against Women Act (VAWA)**

Violence Against Women Act (VAWA) for LIPH residents ~~applicants~~ who are victims of domestic violence, dating violence, sexual assault or stalking including LIPH resident ~~and applicant~~ families claiming protections under the Violence Against Women Act (VAWA).

**Commented [ER7]:** Do we want to include applicants or LIPH residents only?

*\*This preference applies if an applicant is already on the HCV waitlist as a result of having previously applied for HCV. The preference will be applied, and the applicant will be repositioned on the waitlist based on the date of the original approval date.*

*An applicant who is not yet on the LIPH or HCV applicant waitlist will be added only to the LIPH applicant site-based waitlist as outlined in the ACOP.*

*New applicants **will not** be added to the HCV waitlist, however, once on the LIPH waitlist, families may potentially have a one-time opportunity to opt for vouchers if vouchers are available.*

See the VAWA preference policy for more information.

#### **4.5.) Documented Witness Protection**

For individuals or families that are in a documented Witness Protection Program. Documentation must be provided by the appropriate law enforcement agency.

#### **5.6.) LIPH-ECC – Crime and Safety**

For individuals or families currently residing in an ECC/HANH public housing unit, who are in a situation involving crime and safety where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH public housing or RAD/PBV or PBV unit.

~~does not meet the needs of ECC/HANH public housing residents due to other situations involving crime and safety. Documentation must be provided by the appropriate law enforcement agency.~~

#### **6.7.) Homeless**

For individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN) and who will receive vouchers for project-based developments with homeless requirements or will receive tenant-based vouchers.

#### **7.8.) Supportive Housing**

For individuals or families who are direct referrals for ECC/HANH project-based (PBV) or tenant-based (TBV) supportive housing programs

#### **8.) Emergency Housing Vouchers (EHV)**

~~For families who are direct referrals for the Emergency Housing Vouchers (EHV)~~

## 9.) Special Circumstance Vouchers

Households are in circumstances that present an imminent risk to their life, health or safety, and where Housing Choice Voucher assistance is the primary mechanism for remedying the emergency situation and/or households in other housing emergency circumstances. Approved by the President.

### NOTE:

Supportive Housing, Special Circumstance and Homeless are preferences but are established as separate waiting lists in the ECC/HANH Wait List systems.

### ECC/HANH Policy

To view the order of voucher issuance and complete voucher issuance table, see Chapter 17-VII.E Choice Mobility Project Based Voucher (PBV) to Tenant Based Voucher (TBV).

**Commented [ER8]:** Needs a discussion and update

HCV Waitlists & Prefer					
	TBV Waitlist with order of preferences	Reasonable Accommodation from LIPH	VAWA Preference from LIPH	RAD/PBV to TBV Transfer Waitlist with order of preferences (1 out of every 4 required)	PBV to TBV transfer waitlist with order of preferences

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

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

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

### ECC/HANH Policy

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

### **Order of Selection**

The ECC/HANH system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)].

If ECC/HANH does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

ECC/HANH Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with ECC/HANH's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected according to the date and time of application.

Separate waiting lists will be established for applicants/referrals for project-based or tenant-based applicants in supportive housing and/or Effort to end homelessness initiatives.

Documentation will be maintained by the ECC/HANH as to whether families on the list qualify for and are interested in targeted funding.

#### **4-III.D. NOTIFICATION OF SELECTION**

When a family has been selected from the specific waiting list, ECC/HANH must notify the family of the selection.

ECC/HANH Policy

The ECC/HANH will notify the family by first class mail, or email if applicable, when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time and location of the scheduled application interview, including any procedures for rescheduling the interview.

- Who is required to attend the interview.

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

- Documents that must be provided at the interview to document eligibility for a preference, if applicable

- Other documents and information that should be brought to the interview

If a notification letter is returned to ECC/HANH with no forwarding address, the family will be removed from the waiting list without further notice.

Applicants who fail to attend their scheduled interview or who cannot be contacted to schedule an interview will be scheduled for a second interview. Applicants who cannot be contacted after a second attempt or who fail to show for a second interview shall have their applications withdrawn, subject to reasonable accommodation for people with disabilities.

#### **4-III.E. THE APPLICATION INTERVIEW**

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if ECC/HANH determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period determined by ECC/HANH [Notice PIH 2012-10].

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

#### ECC/HANH Policy

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

All adult family members are required to attend the interview. The ECC/HANH may waive this requirement on a case-by-case basis for students attending school out of state and/or for members for whom attendance would present a hardship.

All adult household members must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.)

If the household member does not provide the required documentation at the time of the interview, he or she will be required to provide it within 10 business days.

Pending disclosure and documentation of social security numbers, ECC/HANH will allow the family to retain its place on the waiting list for 90 days. If all household members have not disclosed their SSNs at the next time the ECC/HANH is issuing vouchers, the ECC/HANH will issue a voucher to the next eligible applicant family on the waiting list.

Verification of information pertaining to adult members of the household that are not present at the interview will not begin until signed release forms are returned to ECC/HANH.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, signing authorization of release of information forms, consent forms allowing ECC/HANH to obtain required criminal records, providing required signatures, and submitting required documentation. If any materials are missing, ECC/HANH will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview

(Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status).

If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the ECC/HANH will provide translation services in accordance with the ECC/HANH's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact ECC/HANH in advance of the interview to schedule a new appointment. This does not count as a missed appointment.

In all circumstances, if a family does not attend a scheduled interview, ECC/HANH will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without ECC/HANH approval will be denied assistance based on the family's failure to supply information needed to determine eligibility.

Exceptions may be made on a case-by-case basis where extenuating circumstances out of the applicant's control prevented them from attending the second appointment. The applicant will be required to provide acceptable documented proof. If approved, a third appointment will be scheduled.

When ECC/HANH denies eligibility due to failure to appear at the eligibility interview and/or 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.F. COMPLETING THE APPLICATION PROCESS**

ECC/HANH must verify all information provided by the family (see Chapter 7). Based on verified information, ECC/HANH must make a final determination of eligibility (see Chapter 3) and must confirm that the family is qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

##### ECC/HANH Policy

If ECC/HANH determines that the family is ineligible, ECC/HANH will send written notification of the ineligibility determination within 10 business days of the determination to the family. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g., targeted funding, extremely low-income), the family will be returned to the waiting list. The ECC/HANH will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

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

## PART IV: **VAWA APPLICANT WAITLIST & TRANSFER WAITLIST PREFERENCE**

### 4-IV.-A. OVERVIEW

In support of The Violence Against Women Act, 42 U. S. C. 13701, ECC/HANH has implemented a waitlist preference for victims of domestic violence. The preference applies to:

- all site-based waitlists for developments owned and managed by ECC/HANH, including sites managed by a 3<sup>rd</sup> party entity
- ECC/HANH's in-house transfer waitlists

### Admissions and Screening

**A. Non-Denial of Assistance.** ECC/HANH will not deny admission to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, sexual assault, dating violence, or stalking, provided that such person is otherwise qualified for such admission.

**B. Admissions Preference.** Applicants for housing assistance from ECC/HANH will receive a preference in admissions by virtue of their status as victims of domestic violence, sexual assault, dating violence, or stalking. This preference is particularly described as follows:

- Applicants holding a place on any ECC/HANH wait list will be repositioned as outlined in the Administrative Plan.

**C. Mitigation of Disqualifying Information.** When requested in writing by an applicant, whose history includes incidents in which the applicant was a victim of domestic violence, ECC/HANH, shall take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling.

If requested by an applicant to take such mitigating information into account, ECC/HANH shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information.

ECC/HANH will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

**D. Mandatory Disqualify:** Former Housing Choice Voucher Participants and former Residents of any Low-Income Public Housing program who were not in good standing at the time of exiting the program.

**Commented [ER9]:** Are we extending the preference to applicants?

#### 4.IV-B. PREFERENCE QUALIFICATIONS

To qualify for the VAWA preference an incident of domestic violence must have taken place no more than 90 calendar days prior to date of ECC/HANH's receipt of the VAWA ~~application request, certification~~ and the applicant must be currently homeless or at risk of being homeless as a result of domestic violence.

##### Supporting Documents

The ~~applicant-resident~~ must provide supporting documentation of incident(s) of domestic violence including certification from a federal, state, tribal, territorial or local police; or protective order; or a signed certification by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse.

This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional.

Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health 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 incident(s) of ~~abuse~~. The victim must also sign the documentation.

##### Request for the VAWA Preference

To begin the VAWA preference application process, the ~~applicant-resident~~ may visit our office at 360 Orange Street, New Haven, CT 06511 to obtain a VAWA certification packet. If unable to visit the office, the applicant may contact ECC/HANH's ~~Reasonable Accommodations-Resident Compliance and Support~~ Manager (~~RCSM~~) at 498-8800 and request the VAWA Certification Form be mailed.

Once the applicant has ~~received~~ the VAWA certification form he/she must fill out the form in its entirety, sign and return along with required ~~proof supporting documentation~~ of domestic violence incident(s). All incomplete requests will be denied.

The completed certification packet and supporting documentation are to be mailed or hand delivered to:

~~Reasonable Accommodations~~**Resident Compliance and Support** Manager  
Elm City Communities/Housing Authority of the City of New Haven  
360 Orange Street  
New Haven, Connecticut 06511

If the ~~applicant-resident~~ cannot mail or hand-deliver the completed form, please contact the ~~Reasonable Accommodations~~ **Resident Compliance and Support** Manager to discuss other methods of delivery.

##### Denial of Preference

Notification of Rejection will be sent by ECC/HANH's ~~Reasonable Accommodation~~ Resident Compliance and Support Manager (RCSM) within 10 business days of receipt. The notice will inform the applicant of the basis for such determination and will offer an opportunity for an informal hearing.  
(see ECC/HANH ACOP & Administrative Plan for Informal Hearing of Rejected Applicants).

### **Approval of Preference**

When the VAWA preference is approved, the applicant will receive notification of approval as well as the pre-application. Upon receipt of the completed pre-application, all eligible families will be added to all wait lists for which the family qualifies for.

If an applicant is already on the ECC/HANH applicant waitlist as a result of having previously applied for HCV, the preference will be applied, and the applicant will be repositioned on the applicant waitlist as outlined in the agency's HCV Administrative Plan (Admin Plan), based on the date of the original approval date.

*\*An applicant who is not yet on the LIPH or HCV applicant waitlist will be added only to the LIPH applicant site-based waitlist as outlined in the ACOP.*

*New applicants will not be added to the HCV waitlist, however, once on the LIPH waitlist, families may potentially have a one-time opportunity to opt for vouchers if vouchers are available.*

### **4.IV-C TRANSFERS FOR CURRENT ECC/HANH RESIDENTS APPROVED FOR VAWA PROTECTIONS TO ANOTHER ECC/HANH OWNED SITE**

Current residents of properties owned and/or managed by ECC/HANH or a 3<sup>rd</sup> party entity who experience new incident(s) of domestic violence may request a unit transfer as a protection

The resident would submit a completed VAWA certification or Form 5383 for Emergency Transfer Request to ECC's Reasonable Accommodations Manager.

The submission must also include supporting documentation of incident(s) of domestic violence including certification from a federal, state, tribal, territorial or local police; or protective order; or a signed certification by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse.

To qualify for the VAWA preference an incident of domestic violence must have taken place no more than 90 calendar days prior to the date of ECC/HANH's receipt of the VAWA application request for a transfer.

Resident families approved for protections will be added to ECC/HANH's "LIPH" transfer list with a VAWA preference. The resident families will be offered units in LIPH and RAD properties, and ECC owned (LIPH/PBV) properties managed by a 3<sup>rd</sup> party entity. (See Chapter 19)

### **LIPH/PBV/RAD Unit Assignments for New Applicants**

When an applicant family with a VAWA preference reaches the top of a site-based wait list and is eligible to receive a unit offer, ECC/HANH will approve the first available and appropriate sized unit, as outlined by the Occupancy Standards found in ECC/HANH'S ACOP and Admin Plan.

The unit may be within either ECC/HANH's low-income public housing properties, RAD & RAD/PBV properties, or ECC/HANH owned property that is managed by a 3<sup>rd</sup> party entity.

Commented [ER10]: Do we still want this?

When the applicant family is extended a unit offer and rejects the unit offer for good cause, that is related to the development, not the specific unit, the family will be withdrawn from that site-based wait list only, thereby allowing the family to remain active on other site-based wait lists.

If the unit family rejects the unit offer for reasons related to the suitability of the unit for the family, ECC/HANH will review the facts and make a determination as to whether the rejection warrants withdrawal of the family from that specific wait list.

Failure to accept this offer for any reason other than good cause will result in the applicant being removed from that particular wait list.

### **4-IV. D HCV OPTION FOR APPLICANTS ON A LIPH SITE BASED WAITING LISTS WITH VAWA PREFERENCE**

Each month, the ~~Reasonable Accommodations~~ Resident Compliance and Support Manager (RCSM) or designee will determine how many families have been on a site based LIPH wait lists for a period of 90 days. The RCSM will then contact the HCV Manager or designee to determine if vouchers are available for said families.

Commented [ER11]: Need to review

When vouchers are available, the ~~Reasonable Accommodations~~ Resident Compliance and Support Manager will contact the families who have been on the LIPH waiting list for a period of 90 days. The ~~Reasonable Accommodation~~ Resident Compliance and Support Manager will use the date of receipt of pre-app, since family will have a different position number on each development list).

These families will be invited to an informational session to discuss their choice of receiving a voucher or waiting for an available LIPH unit.

Families will then indicate their preference in writing within 10 business days of the informational session by using the election form provided at the session. The offer to opt for a Housing Choice Voucher will only occur once for each family.

The names of applicants choosing vouchers will be provided to the HCV department for inclusion on the HCV TBV wait list with the VAWA preference.

Commented [ER12]: Will this be a special purpose WL?

The HCV department will conduct briefings and voucher issuances for the families. Families that choose a voucher but later opt to stay on the LIPH waitlist, instead of using the voucher, will be able to do so.

The family must provide written notification of such decision to ECC prior to the lease & Housing Assistance Contract signing with ECC/HANH's HCV staff.

Applicants who choose and utilize the voucher will remain on the LIPH wait lists without a preference unless the family requests, in writing, to be removed from the waitlist, or when other circumstances outlined in the ACOP warranting removal from the waitlist occur.

Families who opt out of receiving a voucher and choose to remain on LIPH wait lists will do so with the VAWA preference.

#### **4-IV. E HCV OPTION FOR RESIDENTS ON THE "LIPH" TRANSFER LIST WITH A VAWA PREFERENCE**

ECC/HANH will offer 2 options to resident families who experience new incidents of domestic violence and are approved for inclusion on the "LIPH" transfer list.

##### **Option 1**

Each month, the ~~Reasonable Accommodations~~Resident Compliance and Support Manager (RCSM) or designee will determine how many families have been on the "LIPH" Transfer wait list for more than 90 days, the ~~Reasonable Accommodation~~Resident Compliance and Support Manager will then contact the HCV Manager or designee to determine if tenant-based vouchers (TBV) are available for said families.

When vouchers are available, the ~~Reasonable Accommodations~~Resident Compliance and Support Manager will contact families from the LIPH transfer wait list who were on the list for more than 90 days did not receive and accept a unit transfer offer and were not previously contacted for a housing voucher (using date of the approval for the VAWA preference).

These families will be invited to an informational session to discuss their choice of receiving a voucher or remaining on the transfer list awaiting a LIPH unit transfer offer.

The families will then indicate their preference in writing within 10 business days of the informational session by using the election form provided at the session. The offer to opt for a Housing Choice Voucher will only occur once for each family.

Those resident families choosing vouchers will be added to the HCV VAWA transfer list. Names will be provided to the HCV Dept. for briefing and voucher issuance.

The family will remain a LIPH family with no loss of rights until they have been offered a voucher, signed a lease and a HAP contract is executed by ECC/HANH and a property owner on behalf of the family.

If a family chooses a voucher but later opts to stay on the LIPH transfer list instead of using the voucher, the family will be able to do so.

However, the written notification by the family **must occur prior** to the lease signing with another property owner and execution of a Housing Assistance Contract by ECC/HANH HCV staff and property owner.

## **Option 2**

Per Notice PIH 2021-15 (HA), issued May 5, 2021.

The Emergency Housing Voucher (EHV) program is available through the. **American Rescue Plan Act of 2021 (P.L. 117-2) (ARP).**

The U.S. Department of Housing and Urban Development (HUD) has awarded 37 of Emergency Housing Vouchers (EHVs) to the ECC/HANH to be used to assist individuals and families who are:

- (1) homeless;
- (2) at risk of homelessness;
- (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or
- (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

NOTE: Recently homeless individuals and families must always be referred by the CoC or its designee.

HUD has established an alternative requirement under which ECC/HANH must enter into a Memorandum of Understanding (MOU), to establish a partnership with the Continuum of Care (CoC) or other homeless or victim service providers, to assist qualifying families through a direct referral process for the administration of the EHVs. The specific services that the CoC will provide is outlined in the MOU.

HUD has allocated 37 emergency housing vouchers (EHV) to ECC/HANH. ECC/HANH has partnered with Continuum of Care (CoC) as the referral agency for eligible VAWA families.

Families with a VAWA preference may be referred to the CoC for an EHV.

The HCV Manager will request VAWA names from the ~~Reasonable Accommodation Coordinator~~ Resident Compliance and Support Manager. The HCV Manager will forward the referral list to the CoC for review. The CoC will assess the families, make a determination of which families are eligible for the EHV. Based on available EHV the qualifying families will be submitted through the direct referral process to HCV.

The CoC will be responsible for:

- prioritizing individuals and families for EHV assistance,
- determining the eligibility of homelessness,
- referring individuals and families through the CoC's coordinated entry (CE) system,
- supporting individuals and families in processing voucher applications,
- supporting the housing search process,
- planning for and coordinating the delivery of supportive services to support the housing stability of EHV participants.

After September 30, 2023, ECC/HANH may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or has ended.

~~Those families who do not qualify for an EHV, will remain active on the LIPH transfer list and the HCV VAWA transfer list.~~

*Note: VAWA requirements and ECC/HANH policies including definitions, notification, documentation, and confidentiality can be found in chapter 16. Specific VAWA requirements and ECC/HANH policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."*

**PART V: ~~EFFORT~~ EFFORT TO END HOMELESSNESS  
HOMELESS PREFERENCE/WAITING LIST SET-ASIDES**

**4-V.A. HOMELESS DEFINITION AND PREFERENCE**

ECC/HANH is adding a homeless admissions preference/set-aside for applicants for the project-based and tenant-based Effort to End Homelessness Initiatives.

This preference/set-aside applies to families or individuals who are:

- (1) homeless;
- (2) at risk of homelessness;
- (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or
- (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

The HUD definition of Homeless is listed in 4 categories:

**Category 1**

**Literally homeless individuals/families**

Individuals and families who lack a fixed, regular, and adequate night-time residence, which includes one of the following:

- Place not meant for human habitation
- Living in a shelter (Emergency shelter, hotel/motel paid by government or charitable organization)
- Exiting an institution (where they resided for 90/ days or less AND were residing in emergency shelter or place not meant for human habitation immediately before entering institution)

**Category 2**

**Individuals/families who will imminently (within 14 days) lose their primary night-time residence, which includes ALL of the following:**

- Have no subsequent residence identified AND
- Lack the resources or support networks needed to obtain other permanent housing

### **Category 3**

**Unaccompanied youth (under 25 years of age) or families with children/youth who meet the homeless definition under another federal statute and includes ALL of the following:**

- Have not had lease, ownership interest, or occupancy agreement in permanent housing at any time during the last 60 days
- Have experienced two or more moves during the last 60 days
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, OR chronic physical health or mental health conditions, OR substance addiction, OR histories of domestic violence or childhood abuse (including neglect) OR presence of a child or youth with a disability, OR two or more barriers to employment

### **Category 4**

**Individuals/families fleeing or attempting to flee domestic violence, dating violence, violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or family member and includes ALL of the following:**

- Have no identified residence, resources or support networks
- Lack the resources and support networks needed to obtain other permanent housing

Source: [http://www.hudhre.info/documents/HEARTH\\_HomelessDefinition\\_FinalRule](http://www.hudhre.info/documents/HEARTH_HomelessDefinition_FinalRule)

### **ECC/HANH Policy**

ECC/HANH has established a homeless preference and set-aside vouchers/waiting lists for individuals and families that meet the HUD definition of homelessness.

There will be set-aside vouchers/waiting lists for families and individuals who will be housed in the PBV and TBV supportive housing programs.

ECC/HANH must have a Memorandum of Understanding (MOU) with the CAN for the set-aside vouchers under the ECC/HANH MTW Homeless Voucher initiative.

The homeless preference will apply to individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN). The preference will apply to project-based developments that have homeless requirements for designated units or tenant-based vouchers.

When units and/or vouchers that are designated for the homeless population become available, current applicants on the HCV waiting list will be notified of the homeless preference and will be instructed on the necessary procedure to qualify.

They will need to contact the Coordinated Access Network (CAN) for an assessment and the CAN will send a referral to ECC/HANH. To be eligible for the preference, an applicant must be a direct referral from the Coordinated Access Network (CAN).

The applicant will be granted a first right to an available unit under the preference should they meet the above definition of homeless.

Notification to applicants on the HCV waiting list will be done by first class mail or electronic mail and/or posted on the ECC/HANH website, [www.elmcitycommunities.org](http://www.elmcitycommunities.org), and applicant portal no later than thirty (30) days prior to the effective date of the preference. ECC/HANH must have a MOU with the CAN specific to the homeless preference.

For the set aside vouchers and homeless preference, the CAN will conduct an applicant assessment through their Coordinated Entry system and will send the referral to ECC/HANH.

The CAN will determine which program the applicant is eligible for and will send the referral accordingly.

Once the referral has been received, the applicant will be placed on the appropriate Set Aside/Voucher Waiting List or assigned the homeless preference.

The referral must include a commitment by the homeless service provider to provide supportive services to help the household transition from homelessness to permanent housing.

When a unit becomes vacant in a PBV or RAD/PBV development the applicant who meets the criteria of the admissions preference and who is on the existing waiting list will be selected first for eligibility determination and unit offer.

When tenant-based vouchers are offered, the applicant who meets the criteria of the admissions preference and who is on the existing waiting list will be selected first for eligibility determination and a voucher offer.

All applicants must comply with the current admissions requirements at the specific property, including income and background screening criteria.

Applicants must also comply with the ECC/HANH eligibility and background screening criteria as stated in Chapter 3 (Eligibility) of this Admin Plan.

Applicants who do not pass the eligibility criteria will be provided with the basis of the intent to deny or denial in writing and will be notified of their right to request a meeting to review the information or [the right](#) to request an informal hearing. (See Chapter 16, Informal Reviews and Hearings.)

If the intent to deny review or informal review meeting is favorable to the applicant, the applicant will be returned to the waiting list with the homeless preference and offered the next available unit or voucher.

Through the establishment of the Homeless and near homeless set aside vouchers for Choice Mobility Cap, applicants referred from the CAN are entitled to receive 1 out of every ~~3~~<sup>2</sup> new vouchers issued. The remaining 2 vouchers will be issued to applicants on ECC/HANH's Tenant Based Voucher (TBV) Wait List with a VAWA preference.

In essence, the TBV waitlist is tiered into five separate waitlists so as to accommodate the choice mobility requirement outlines above, and to assure that applicants who qualify for the set aside under the ECC/HANH's Tenant Based Voucher (TBV) Wait List with a VAWA preference.

**Note:** This preference can be amended as needed and/or removed with proper notification of such to all affected parties, including written notification to HUD.

## Chapter 5

### BRIEFINGS AND VOUCHER ISSUANCE

#### INTRODUCTION

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

This chapter describes HUD regulations and ECC/HANH policies related to these topics in two parts:

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

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

#### PART I: BRIEFINGS AND FAMILY OBLIGATIONS

##### 5-I.A. OVERVIEW

HUD regulations require ECC/HANH conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains ECC/HANH's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program. [ECC/HANH must take reasonable steps to ensure meaningful access by persons with Limited English proficiency](#)

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

ECC/HANH must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions, or via briefing video. At the briefing, ECC/HANH 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.

#### ECC/HANH Policy

Briefings will be conducted in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions, or via briefing video.

The Head of Household is required to attend or watch the briefing.

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

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

### **Notification and Attendance**

#### ECC/HANH Policy

If the applicant family wishes to add or remove a member(s) at the time of the initial briefing, the family will be referred back to the Intake Team.

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

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

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

### **Remote Briefings [Notice PIH 2020-32]**

#### ECC/HANH Policy

Remote briefings may be conducted over the phone, via videoconferencing, or through other virtual platforms.

ECC/HANH will conduct a face-to-face briefing upon request of the applicant, as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

### **Conducting Remote Briefings**

ECC/HANH must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to ECC/HANH. ECC/HANH must ensure that the family has the appropriate technological access in order to fully participate in the remote briefing.

Using the ECC/HANH Tenant Portal, the applicant/participant will be notified that the briefing is available to view. If a family does not watch the briefing video within five business days, or if the written notification that was sent to the family is returned by the post office or the email alert is rejected, ECC/HANH will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family.

ECC/HANH will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

ECC/HANH will conduct remote briefings via the tenant portal video platform when available. If applicants are unable to adequately access the video conferencing platform, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

ECC/HANH will provide login information via the tenant portal. An electronic copy of the briefing packet will be available upon invitation of briefing, via the tenant portal. ECC/HANH will provide a paper copy of the briefing packet upon family request.

ECC/HANH will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring that personally identifiable information (PII) is protected.

ECC/HANH will ensure that families who participate in remote briefings have the opportunity to ask questions.

If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with ECC/HANH.

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

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;

- Where the family can lease a unit, including renting a unit inside or outside ECC/HANH's jurisdiction; and any information on selecting a unit that HUD provides
- An explanation of how portability works. ~~ECC/HANH may not discourage the family from choosing to live anywhere in ECC/HANH's jurisdiction or outside ECC/HANH jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;~~
- ECC/HANH must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- An explanation of the advantages of areas that do not have a high concentration of lowincome families; ~~and~~
- ~~For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.~~

ECC/HANH may not discourage the family from choosing to live anywhere in the ECC/HANH's jurisdiction or outside the ECC/HANH's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.

ECC/HANH must take appropriate steps to ensure effective communication in accordance with 24 CFR 8.6 and 28 CFR part 35, subpart E, and must provide information on the reasonable accommodation process.

#### **Briefing Packet [24 CFR 982.301(b,); New HCV GB, *Housing Search and Leasing*, p. 7)]**

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

- The term of the voucher, voucher suspensions, and ECC/HANH's policies on any extensions of the term. If ECC/HANH allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how ECC/HANH determines the payment standard for a family, how ECC/HANH determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how ECC/HANH determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.

- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the ECC/HANH policy on providing information about families to prospective owners.
- The ECC/HANH subsidy standards and when ECC/HANH will consider granting exceptions as allowed by 24 CFR 982.404(b)(8), and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA).
- ~~including when and how exceptions are made.~~
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- 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 the contact information for the Section 504 coordinator and a copy of the housing discrimination complaint form and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, or the Americans with Disabilities Act (ADA).
- A list of landlords known to ECC/HANH who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to ECC/HANH that may assist the family in locating a unit. ECC/HANH must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to ECC/HANH.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the ECC/HANH may terminate assistance for a participant family because of family action or failure to act.
- ECC/HANH's informal hearing procedures including when ECC/HANH is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families. which may include access to accessible and

[highquality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services](#)

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

### **Additional Items to Be Included in the Briefing Packet**

In addition to items required by the regulations, ECC/HANH may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH2017-12].

#### ECC/HANH Policy

ECC/HANH will provide the following additional materials in the briefing packet:

[The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act](#)

[Requirements for notifying the PHA of any changes in income or family composition](#)

Information on how to fill out and file a housing discrimination complaint form

Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-IX.C)

“Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

The Environmental Protection Agency (EPA) pamphlet on lead-based paint entitled ‘Renovate Right’

A list of available accessible units known to ECC/HANH for persons with disabilities

A summary of ECC/HANH’s reasonable accommodations procedures

A Request for Reasonable Accommodation form

A copy of HUD form 903

How to request a Minimum Rent Hardship Exemption form Sample  
of a HAP Contract

Mobility Counseling Referral form

## 5-I.C. FAMILY OBLIGATIONS

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

### Time Frames for Reporting Changes Required By Family Obligations

#### ECC/HANH Policy

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

When a family is required to provide notice to ECC/HANH, the notice must be in writing.

### Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

- The family must supply any information that ECC/HANH or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by ECC/HANH or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- [The family may be held responsible for a breach of housing quality standards -caused by the family's failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond ordinary wear and tear caused by any member of the household or guest.](#)

- ~~The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.~~

#### ECC/HANH Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow ECC/HANH to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

#### ECC/HANH Policy

ECC/HANH will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify ECC/HANH and the owner before moving out of the unit or terminating the lease.

#### ECC/HANH Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to ECC/HANH at the same time the owner is notified.

- The family must promptly give ECC/HANH a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by ECC/HANH. The family must promptly notify ECC/HANH in writing of the birth, adoption, or court-awarded custody of a child. The family must request ECC/HANH approval to add any other family member as an occupant of the unit.

#### ECC/HANH Policy

The request to add a family member must be submitted in writing and approved by ECC/HANH and by the owner prior to the person moving into the unit. ECC/HANH will determine eligibility of the new member in accordance with the policies in Chapter 3. The family must promptly notify ECC/HANH if any household member no longer resides in the unit.

- If ECC/HANH has given approval, a foster child or a live-in aide may reside in the unit. ECC/HANH has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when ECC/HANH consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

ECC/HANH Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by ECC/HANH to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify ECC/HANH when the family is absent from the unit.

ECC/HANH Policy

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

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and ECC/HANH 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 ECC/HANH policies related to alcohol abuse.

- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless ECC/HANH has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.  
[Form HUD-52646, Voucher]

## **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

### **5-II.A. OVERVIEW**

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

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

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

The following requirements apply when ECC/HANH determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under [the housing quality standards, 24 CFR 5.703](#)
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a twoperson family.

- Any live-in aide (approved by ECC/HANH to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the ECC/HANH subsidy standards.

#### ECC/HANH Policy

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

**Children age five and under will share a bedroom with any child or parent;**

Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

Persons six and older of the same sex will not be allocated separate bedrooms.

Persons six and older of the opposite sex will be allocated separate bedrooms.

A single head of household parent shall not be required to share a bedroom with his/her child.

An unborn child will be counted as a person in determining apartment size.

Exceptions may be made upon approval in case of reasonable accommodations for a person with disabilities (See 5-II-C).

ECC/HANH will reference the following chart in determining the appropriate voucher size for a family:

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

#### **5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS**

In determining family unit size for a particular family, ECC/HANH may grant an exception to its established subsidy standards if ECC/HANH determines that the exception is justified by the

age, sex, health, handicap, or relationship of family members or other personal circumstances. [24 CFR 982.402(b)(8)].

Reasons may include, but are not limited to:

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

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

#### ECC/HANH Policy

ECC/HANH will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor, health professional, social worker), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at bi/triennial reexamination.

ECC/HANH's reasonable accommodation committee will review all requests and determine the eligibility of the request. ECC/HANH will notify the family of its determination. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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

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

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family ~~qualifies, and~~ qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that ECC/HANH has determined the family to be eligible for the program, and that ECC/HANH expects to have money available to subsidize the family if the family finds an approvable unit. However, ECC/HANH does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the ECC/HANH's housing choice voucher program [Voucher, form HUD-52646]

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

ECC/HANH must issue the family a voucher within 60 days of determining the family eligible [24 CFR 982.201(e)]. The income documentation must be dated within 120 days of when it was received by ECC/HANH. However, for fixed-income sources, including Social Security benefits, the documentation must be dated within the appropriate benefit year.

#### ECC/HANH Policy

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

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

#### ECC/HANH Policy

Prior to issuing any vouchers, ECC/HANH will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

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

### **5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS Voucher Term [24 CFR 982.303]**

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

The initial voucher term will be 60 calendar days.

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

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

ECC/HANH 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 ECC/HANH can approve. Discretionary policies related to extension and expiration of search time must be described in ECC/HANH'S administrative plan [24 CFR 982.54].

ECC/HANH 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 family must be notified in writing of ECC/HANH'S decision to approve or deny an extension. ECC/HANH'S decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

#### ECC/HANH Policy

ECC/HANH will automatically approve two (2) 30-day extensions upon written request from the family.

ECC/HANH will approve additional extensions only in the following circumstances, and only if the family provides the required housing search log:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by ECC/HANH. Following is a list of extenuating circumstances that ECC/HANH may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by ECC/HANH

Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) an additional extension is necessary. ECC/HANH may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to ECC/HANH prior to the expiration date of the voucher (or extended term of the voucher).

ECC/HANH 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 family written notice of its decision.

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

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

#### ECC/HANH Policy

When a Request for Tenancy Approval and proposed lease is received by ECC/HANH, the term of the voucher will be suspended while ECC/HANH processes the request. If the requested tenancy is denied, ECC/HANH will provide the family notice in writing of the new expiration date of the voucher term along with a new Request for Tenancy Approval (RTA).

### **Expiration of Voucher Term**

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

#### ECC/HANH Policy

If an applicant family's voucher term or extension expires before ECC/HANH has approved a tenancy, ECC/HANH will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, ECC/HANH will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

## Chapter 6

### INCOME AND SUBSIDY DETERMINATIONS

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

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and ECC/HANH's subsidy. ECC/HANH will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations.

##### ECC/HANH Policy

As ECC/HANH is a Moving-to-Work Agency, HUD allows ECC/HANH to simplify the income and rent determination policies and processes for the standard Housing Choice Voucher (HCV) program. These rules do not apply to special programs such as Veteran's Administration Supportive Housing (VASH) or Single Room Occupancy (SRO) (see Chapter 15 Special Housing Types).

This chapter describes HUD regulations and ECC/HANH policies related to these topics in three parts as follows:

Part I: Annual Income. ECC/HANH policies for calculating annual income are found in Part I.

Part II: Monthly Income Tiered Rent and Total Tenant Payment (TTP). The family's annual income is compared to a Simplified Rent Table to determine the family's Monthly Income Tiered Rent (TTP). The Simplified Rent Table takes into consideration average adjustments that would be made to a family's annual income based on existing HUD regulations, resulting in the Total Tenant Payment (TTP). Families experiencing \$2,000 or more in allowable income deduction adjustments will then experience a reduction in their TTP.

Part III: Family Share and ECC/HANH Subsidy. The application of agency payment standards, use of utility allowances, and the methodology for determining ECC/HANH subsidy and required family payment.

## **HOUSING CHOICE VOUCHER RENT SIMPLIFICATION**

ECC/HANH believes there is a better way to administer essential housing programs, one that encourages long-term self-sufficiency for both the program participants as well as the agency.

**The Rent Simplification policies apply only to the Housing Choice Voucher (HCV) Program included under the agency's MTW Program. The Moderate Rehabilitation Program, Mainstream for Elderly, Welfare to Work and Enhanced Vouchers are not covered by these policies.**

### **Rent Simplification: Equity & Efficiency**

The proposed system rewards families who increase their incomes and provides them with more opportunities to save while easing ECC/HANH/ELM CITY COMMUNITIES's burden of administering these housing programs.

### **Everyone Should Contribute**

ECC/HANH believes that every family should contribute towards their housing. Under Rent Simplification, the criteria under which a family can claim zero income and not pay any rent are not changed. What will change is the amount of time families will be permitted to request an interim adjustment. The minimum rent will be increased from \$25.00 per month to \$50.00 per month for the HCV Program.

### **Fiscal Equity for ECC/HANH/ELM CITY COMMUNITIES**

Rent Simplification is forecast to be revenue neutral. In other words, the implementation of Rent Simplification will not increase the amount of rental revenue to the ECC/HANH/ELM CITY COMMUNITIES.

### **Approvable Method**

Rent Simplification allows all stakeholders to easily understand how tenant rents are determined, and armed with some basic income data, anticipate what future rents will be. This will allow families to easily plan for future expenses and savings.

### **Measurable Reduction in Administrative Time**

By simplifying the rent determination and deduction procedures in Federal Public Housing, Rent Simplification makes the job of recertifying tenants significantly easier.

### **Transition to Avoid Hardships**

ECC/HANH/ELM CITY COMMUNITIES has devised a system that is not only revenue neutral for the organization but will not result in any undue hardship to our families. There will be a transition period of one year from the current income based rent determination process to

the new income tiered rent determination process. No family will have an increase in Total Tenant Payment (TTP) during the first year they are subject to the requirements of this Rent Simplification Policy. Please note that this hold harmless provision does not apply to increases in TTP that result from an increase in family annual income above the amount earned in the reporting period immediately preceding the family being subject to Rent Simplification. No family shall be subject to an increase in TTP of greater than \$25.00 a month during the second year that the family is subject to the Rent Simplification Policy. The increase in TTP during the third year the family is subject to Rent Simplification shall not exceed \$50; \$75 a month during the fourth year; and \$100 a month above the monthly TTP in the year immediately following the implementation of Rent Simplification.

### **Asset Exclusion**

Asset exclusion is raised to \$50,000.00. Increasing the asset exclusion amount allows residents to accumulate more assets before they are calculated as income. Families will self-certify that they do not have assets in excess of \$50,000.00.

### **Earned Income Disallowance**

**The Earned Income exclusion under Sec. 5.617** for Self-Sufficiency incentives for persons with disabilities who experience increases in annual income is eliminated. Instead, family members over the age of 18 who enroll in ECC/HANH's Family Self Sufficiency (FSS) Program will have all **Incremental earnings** and benefits resulting to the family member from participation in qualifying Federal, State or City of New Haven employment training programs (including training programs not affiliated with a local government) and training of a family member while enrolled in the FSS Program excluded from determination of Annual Income so long as the family member is enrolled in the FSS Program.

### **Family Self Sufficiency (FSS) Income Exclusions**

The average annual income of our participants in the HCV Program is approximately \$15,700.00 and the median is \$12,900.00 per year. In order to promote long-term sustainable economic self-sufficiency of the residents, all families that enroll in the FSS program who are members of Very Low Income families will have all incremental earnings and benefits from any qualified Federal, State or Local employment training program training of a family member (including programs not affiliated with the local government) excluded from the determination of Annual Income so long as the family member is enrolled in HANH/ELM CITY COMMUNITIES's FSS Program.

Additionally, any incremental earning by any family member while enrolled in the FFS Program will be excluded from the determination of Annual Income, 100% during the 1<sup>st</sup> year, 75% in 2<sup>nd</sup> year, 50% in 3<sup>rd</sup> year, 25% in 4<sup>th</sup> year and 0% during the 5<sup>th</sup> year of FSS participation. In addition to regularly scheduled recertifications, the family member will have their rent re-determined at the conclusion of the FSS Program or termination from the Program.

Families may choose to enroll directly into the optional FSS Earned Income Disregard so long as any member of the household is enrolled in FSS Program. Incremental earnings from wages or salaries are excluded in the first 12 months; 75% in the second 12 months; 50% in the third 12 months; and 25% in the fourth 12 months. A family is limited to 48 months of eligibility for this optional IEE.

In addition to expanding the scope of the existing exclusion to include Federal and State programs, an optional exclusion will be provided to cover the incremental increases and wages and salaries so long as that family member is enrolled in the ECC/HANH/ELM CITY COMMUNITIES FSS Program.

There is not a requirement that these increases in rental income must go into an escrow account. Families will be permitted to retain these additional earnings.

### **Other Exclusions**

All adoption assistance payments will be excluded from income calculations under Section 5.609(c) (8) (v) as the \$480 dependent deduction is eliminated. All income earned by full-time students will no longer be included in the determination since there will no longer be the \$480 dependent deduction to offset income.

### **Annualized Income Calculation**

Prospective and past income may be used to calculate resident rents, especially for families with irregular or sporadic employment histories. For families with income of up to and including \$5,000.00 we will accept a self-certification. For families earning more than \$5,000.00 of wages and salaries we want pay stubs covering the most recent four weeks of employment or a W-2 or 1099 within 180 days of the effective date of recertification. We must complete EIV or other UIV as required by HUD.

### **Annual Reexaminations**

Reexaminations are currently conducted every year for non-elderly households and every two year for elderly and disabled households. ECC/HANH spends on average three hours per annual reexamination. Under Rent Simplification, annual reexaminations will occur every two years for non-elderly households and every three years for elderly and disabled households. These changes will allow families who experience increases in income to retain all of their increased earnings between annual reexaminations. During the first year all families will be recertified. This process will be phased in over a three-year period.

Effective FY2015 (October 2014), ECC/HANH updated its definitions of elderly/disabled and work-able families. Under the policy change, an elderly/disabled family will be defined as one in which all adult members (excluding live-in attendants) are elderly and/or disabled. A work-able family will be one that doesn't meet the new elderly/disabled definition. Work-able households

under the new definition will have reexaminations every two years (biennial schedule) and elderly/disabled households will have annual reexaminations every three years (triennial schedule).

ECC/HANH believes this new definition more closely matches the spirit of a “work-able” family since all work-able families would have at least one work-able adult. Under the prior definition, an elderly/disabled family only needed a head, co-head, or spouse to be elderly or disabled which led to some families with work-able adults being categorized as elderly/disabled. This change will also give ECC/HANH the ability to better track earnings and employment for work-able families; and the better population division will give ECC/HANH the flexibility to implement work-able specific rent policy changes in the future if it so chooses.

### ***Deductions for Exceptional Expenses***

Excess resources are dedicated to verifying deductions for child care, medical and disability allowances. Third party verifications of these amounts are difficult to accomplish and the agency more often than not relies upon first- and second-party verifications of these deductions. Obtaining verification data also places an undue burden on the resident. To simplify this process, ECC/HANH/ELM CITY COMMUNITIES will eliminate standard deductions for these amounts for elderly, disabled and non-elderly households.

Households with exceptional expenses may request a rent reduction. This includes large families (more than two children). It also includes families with high medical expenses, disability assistance expenses, or child care expenses. Combined, exceptional expenses must total no less than \$2000.00 in order for family to qualify for the additional monthly rent deduction.

The amount of expense is set in \$2,000.00 tiers. This allows ECC/HANH/ELM CITY COMMUNITIES to move away from verifying every last dollar. Tenants are not required to provide documentation of every dollar of expense; rather, tenants need only provide documentation sufficient to meet the appropriate tier.

The amount of monthly rent reduction is established at the mid-range of the tier.

Households with exceptional expenses will receive a direct reduction of the monthly rent. However, no tenant’s rent will be reduced below a rent of \$50.00 as a result.

<b>Tiered Amount of Expenses</b>	<b>Monthly Rent Reduction</b>
\$ 2,000 - \$ 3,999	\$ 75 (equivalent to \$3,000 deduction)
\$ 4,000 - \$ 5,999	\$ 125 (equivalent to \$5,000 deduction)
\$ 6,000 +	Hardship Review

### **Changes in Family Composition**

Residents are still required to get permission from the Housing Choice Voucher staff to add anyone to a household and to report changes in family composition. A family's rent is recalculated if the addition or subtraction of a household member results in an income change of

\$200.00 per month or more, or that causes the family to move from one income tier to another. This increase in rent does not count as an interim reexamination.

### **Mandatory Interim Reexaminations Policy**

Residents must request an interim reexamination if any of the following conditions occur:

- Change in family composition that affects the voucher size or bedroom size.
- The addition of a family member 18 years of age or older
- Change in family composition that causes the family to move from one income tier to another with a higher rent schedule.
- Addition of a live-in aid
- Income increase following an interim rent reduction
- If HANH grants an exceptional deduction for any family and there is a subsequent change then the family must report that change to HANH.

### **Optional Interim Reexaminations Policy**

Residents have the option to request three (3) interim reexaminations during every twelve (12) month period. Interims may be granted in the following instances:

- Decrease in family income that is expected to last 90 days or more if it will result in a change in the family's income (exclude seasonal workers; see below)
- Increase in Exceptional Expenses of at least \$2,000.00

Interim rents normally remain in place until the next scheduled reexamination. If a family experiences an increase in income it is not necessary for the family to report this increase in income until the next scheduled certification date, except when the increase occurs after an interim decrease has been processed.

Households receiving a requested interim rent reduction must report any subsequent income increase to ECC/HANH/ELM CITY COMMUNITIES within thirty (30) days of occurrence. Failure to report the change within thirty (30) days results in retroactive rent changes, and depending on the severity of the circumstances, lease termination.

Seasonal workers who are employed for a period of time less than 12 months annually will have their rent calculated over a 12-month period using the 9 or 10 months of income earned. During the months the worker is not actively working, the family will not be able to request a rent reduction as the rent has already been adjusted over a 12-month period.

Permanent loss of income (i.e., death of an income earner) results in a permanent, rather than interim, rent reduction. This decrease in rent does not count as an interim reexamination. Under this circumstance, the family is not required to report a subsequent increase in income until the next scheduled certification.

### ***Verification of Annual Income from Wages and Salaries and Assets***

To reduce the administrative burden associated with the verification of income ECC/HANH/ELM CITY COMMUNITIES will amend its Admission and Continued Occupancy (ACOP) to specify that:

- For earnings from wages and salaries where Annual Income for the prior period is up to and including \$5,000.00, self-certification from family is all that shall be required as verification of income.
- For earnings from and salaries of more than \$5,000.00 the most recent pay stubs for recent 4 weeks of employment, or W-2 or 1099 within 180 days of the anniversary date shall be required in addition to the self-certification, but only to the extent that verification of Annual Income is not available from a third party source of Upfront Income Verification.
- Self-certification of all sources of Annual Income shall be required in all cases.
- For families with total assets of \$50,000.00 or less a self-certification of said assets shall be required.

### **Income Tiered Rents Calculated within \$1,000 Bands**

Rents are based on \$1,000.00 income bands starting at \$2,500.00. Using a band-based rent schedule allows the ECC/HANH/ELM CITY COMMUNITIES and residents to move away from verifying every last dollar earned and deducted. **(See Exhibit A)**

Currently, almost 58 percent of the families in the HCV Program pay 25 percent or more of Annual Income for TTP; approximately 18 percent pay between 20 and 25 percent of Annual Income for TTP; approximately 17 percent pay between 10 and 20 percent of Annual Income for TTP; and approximately 7 percent pay less than 10 percent of Annual Income for TTP.

Currently, the median TTP is \$251.00 per month. The median Housing Assistance Payment is \$725.00 per month. The median Tenant Rent (TTP minus utility allowance) to owner is \$121.00 per month. One of the goals of the Rent Simplification is that it be revenue neutral.

Total Tenant Payment for HCV families shall be set at 28.5 percent of the lower range of each income band. For example, for a family with Annual Income between \$2,500.00 and \$3,499.00, the TTP rent will be calculated at 28.5 percent of \$2,500.00. Families with incomes below \$2,500.00 will pay the minimum rent of \$50.00. Families will be permitted to submit documentation for Additional or Excess Deductions where they have verifiable proof that total deductions as defined herein equal or exceed \$2,000.00

### **Minimum Rents**

**Families with annual income below \$2,500.00 will pay a rent of \$50.00.**

#### **Zero (0) Income Households**

A family claiming zero (\$0) rent is automatically exempt from the minimum rent requirements for a 90-day period when the family's circumstances fall into any one of the following criteria:

1. When a family has lost eligibility or is awaiting eligibility determination from a Federal, State or local assistance program;

2. When the family would be evicted because it is unable to pay the minimum rent;
3. When the income of the family has decreased because of changed circumstances, including loss of employment;
4. When a death in the family has occurred; or
5. Other circumstances determined by ECC/HANH to be reasons to waive the minimum rent requirement (collectively, the "Criteria for Minimum Rent Exemption").

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term exemption from the minimum rent requirement and the HAP will be adjusted accordingly.

A temporary hardship exemption exists when none of the above criteria is expected to last for more than 90 days.

A long term hardship exemption exists when at least one of the above criteria is expected to last for more than 90 days.

A family may only receive one hardship exemption from the minimum rent requirement during a twelve-month period, unless a participant is elderly, disabled or is enrolled in ECC/HANH's Family Self-Sufficiency Program. The minimum rent requirement may be waived more than once during a twelve-month period if at least one adult member of the household enrolls in the Family Self Sufficiency Program (the FSS Program). Elderly and disabled families are not required to enroll in the FSS Program.

Once ECC/HANH identifies a participant's need for a hardship exemption from the minimum rent requirement or the family requests such exemption, the minimum rent shall be suspended immediately for a period of 90 days.

## **Hardship Review**

All "Applications for Exemption from Minimum Rent" shall be forwarded to the Hardship Review Committee.

The Hardship Review Committee shall consist of the Executive Director or his/her designee, the Chief Operations Officer or his/her designee, the Service Center Director or his/her designee, and the Assistant Executive Director of Community and Economic Development or his/her designee. At the family's option, the Hardship Review Committee may include one (1) participant of ECC/HANH who is in good standing.

The Application for Exemption from Minimum Rent shall originate from the family or an ECC/HANH employee if the family experiences any one of the Criteria for Minimum Rent Exemption.

When a participant submits an application or an ECC/HANH employee submits an application on behalf of a participant. ECC/HANH will suspend the minimum rent requirement commencing on the first of the month following the date of the application for a period of 90 days and adjust the HAP payment accordingly.

The participant's assistance cannot be terminated for nonpayment of minimum rent while participant's Application for Exemption from Minimum Rent is pending or during the 90-day period of suspension, whichever is longer.

The Hardship Review Committee shall send a letter to all participant families who have applied for Hardship Exemption from Minimum Rent stating:

- (a) that ECC/HANH has received an Application for Exemption from Minimum Rent,
- (b) that ECC/HANH will suspend the minimum rent requirement for 90 days effective as of the first of the next month and the effective dates of the 90-day suspension,
- (c) that there can be no termination of assistance for non-payment of rent during the suspension period;
- (d) the date for a meeting with the participant to discuss the hardship exemption request, giving the participant family at least ten days advance notice of such meeting and informing the participant that he or she may have one opportunity to reschedule the meeting; and
- (e) that, with the exception of elderly and disabled families, the participant family has been referred to the FSS program and will not be able to receive a hardship exemption in excess of 90 days without enrolling in the program.

The Hardship Review Committee will review the circumstances surrounding the request and determine if the request is temporary, long term or nonexistent.

1. If the Committee determines that ***the hardship is of a temporary nature (the hardship is expected to last less than 90 days)***, at the end of the 90-day period, the participant's rent will be reinstated to the minimum rent retroactively to the initial date of suspension. The participant will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH.
2. If the Committee determines that the ***hardship is of a long-term nature (the hardship is expected to last more than 90 days)***, the tenant shall be exempt from the minimum rent requirement from the first of the month following the date of the application for exemption from the minimum rent until such time that the hardship no longer exists.

ECC/HANH may deny a participant a long term exemption from the minimum rent requirement, if the participant fails to attend the scheduled meetings with the Hardship Review Committee. ECC/HANH will provide each participant one opportunity to reschedule the meeting. If the participant fails to attend the scheduled meetings, ECC/HANH may deny the long-term exemption from the minimum rent requirement. The letter scheduling the meeting, shall inform participants that persons with disabilities are entitled to reasonable accommodation with regard to this requirement.

Except for Elderly or Disabled families, no tenant shall be exempt from the minimum rent requirements for more than 90 days during a one year period unless at least one member of the family who is 18 years of age or older enrolls and actively participates in ECC/HANH's FSS Program for job or benefit counseling. Such family member(s) shall enroll in the FSS program within 30 days from the date of the Application of Exemption from Minimum Rent.

3. If the hardship is determined to be nonexistent, the participant will be responsible for paying rent to ECC/HANH for any rent that was suspended while tenant's Application for Exemption from Minimum Rent was pending. The minimum rent shall be re-instated retroactively to the initial date of the suspension. Participant will have an opportunity to enter into a reasonable repayment agreement with ECC/HANH for any back rent that is due and owing to ECC/HANH.

Upon completion of the review process, the Hardship Review Committee shall render a written recommendation to the Executive Director, who shall then adopt or reject the recommendation and shall issue a written decision that states as follows:

1. If the hardship exemption is determined to be short term:
  - (a) that a short-term hardship exemption was granted;
  - (b) the effective dates of the exemption;
  - (c) the basis for the decision to grant a short-term exemption, including that a long-term exemption was denied and the reason that such long-term exemption was denied; and
  - (d) that the participant has a right to enter into a reasonable repayment agreement with ECC/HANH for the minimum rent that was suspended and is now owing to ECC/HANH.
2. If the hardship exemption is determined to be long term:
  - (a) that a long-term hardship exemption was granted;
  - (b) whether the long-term exemption is permanent or subject to periodic review and, if subject to periodic review, when such review will take place; and
  - (c) that all non-elderly, non-disabled participants are required to comply with FSS requirements as a condition of the receipt of a long term exemption; and
  - (d) that the participant must notify ECC/HANH within 10 days if the hardship ceases to exist because the participant has obtained a source of income sufficient to pay (at least) the minimum rent.
3. If the hardship is determined to be non-existent:
  - (a) that a hardship exemption was denied;
  - (b) the reason for such determination; and
  - (c) the terms and condition on which the participant family must pay back the minimum rent that was suspended and is now owing to ECC/HANH.

All letters concerning Hardship Review Committee determinations shall state that any participant who disagrees with the decision may request an informal hearing in accordance with ECC/HANH's hearing procedures, a copy of which will be included with the written decision. In cases where a hearing is sought, no action shall be taken by ECC/HANH until the grievance process is completed.

### **Mixed Families**

For mixed families, where some households include members with citizenship or eligible immigration status as well as those without, rents are calculated using the simplification model; subsidy is then prorated using current methods.

### **Fraud Prevention**

After two or more instances of job loss or income drop within ninety (90) days of a scheduled reexamination (based on current and prior reexamination history), ECC/HANH/ELM CITY COMMUNITIES sets a rent based on the past year's W-2 or other information available for income verification. Households are advised that this is a potential fraud issue and that they have the right to grieve through the normal process to more fully explain the reasons for the pattern of income loss. ECC/HANH/ELM CITY COMMUNITIES will set the rent after the Conference Panel review.

Households with two or more instances of job loss or income drop within ninety (90) days of a scheduled certification do not have access to the Hardship Review Committee.

### **Rent Simplification Implementation – Housing Choice**

Residents will receive notice of the new policy on July 1, 2007 and the policy will take effect on January 1, 2008 for all reexaminations with an anniversary effective date on or after January 1, 2008 and for all new lease-ups and residents requesting interim reexaminations after January 1, 2008.

A staggered approach is used to integrate the two-year and three-year reexamination cycles.

- Initially in fiscal year 2008, all families will be re-examined during the first year.
- In the second year of the program (2009), two thirds of the elderly/disabled families will be re-examined and one half of the non-elderly/non-disabled families.
- In the third year of the program (2010), one third on the elderly/disabled families will be re-examined and one-half of the remaining non-elderly/non-disabled families.

Rent Simplification is expected to be fully implemented by December 31, 2010.

## SEMAP WAIVERS

The SEMAP verification methods and ratings are set forth under 24 CFR Part 983. As a result of the Rent Simplification Plan many of these indicators will either no longer be relevant or the Authority and/or HUD will be unable to measure ECC/HANH's performance; therefore, ECC/HANH will request a waiver of the following SEMAP indicators beginning October 1, 2007.

- **Sec. 985.3(c). Determination of Adjusted Income.**  
Beginning October 1, 2007, Total Tenant Payment will be based Annual Income by income tiers. Additional, ECC/HANH will no longer include assets of less than \$50,000 in the determination of Annual Income. There will no longer be any Mandatory Deductions; therefore, a waiver of this Section is required.
- **Section 985.3(j) Annual reexaminations.**  
This indicator shows whether ECC/HANH completes a reexamination for each participating family at least every 12 months (24 CFR 5.617). A waiver of this indicator is required since ECC/HANH will no longer reexamine every family each year.
- **Section 985.3(m) Annual HQS Inspections.**  
This indicator shows whether ECC/HANH inspects each unit under contract at least annually. (24 CFR 982.405(a). ECC/HANH will no longer inspect every unit every year, but will instead inspect units according to the families' biennial or triennial recertification schedule.
- **Section 985.507(m) Rent to Owner: Reasonable Rent**
- **Section 985.3(n) Lease-Up.**  
This indicator shows whether ECC/HANH enters HAP contracts for the number of units reserved under ACC for at least one year. Due to the funding fungibility under MTW, Section 8 funds are used according to the priorities set forth in the MTW Annual Plan.

## Alternative Inspection Schedule

ECC/HANH will no longer inspect each unit every year, but will instead inspect units according to the families' biennial or triennial recertification schedule, unless:

- The participant or landlord requests a special inspection due to violations noticed by either party.

## Hardship Waiver Policy and Guidelines

Families with Annual Income below \$2,500 annually shall pay the minimum rent of \$50.00 per month.

All families placed on minimum rent with the exception of elderly and disabled families will be referred to the Family Self Sufficiency Program.

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long-term hardship exemption from the minimum rent requirements.

All families placed on minimum rent must be informed in writing of the procedures for applying for a hardship exemption from the Minimum Rent Requirement and the ability to have minimum rent waived.

All families who apply for such hardship exemption, with the exception of elderly persons and persons with disabilities, will be referred to the Family Self Sufficiency Program in order to assist the family in moving towards self-sufficiency.

ECC/HANH will notify all families of their right to request a hardship exemption from the minimum rent requirement and in accordance with the provisions set forth herein. Participants will be notified of their right to request a hardship exemption through the Application for Exemption from Minimum Rent, a copy of which will be provided to participants at lease-up and at each recertification appointment and mailed to participants at each interim recertification. The policy and procedures for requesting such hardship exemption will also be included in participant rent change notifications, Application for Exemption from Minimum Rent and all form documents related to the exemption process.

### **Criteria for Hardship Exemption from Minimum Rent Requirement.**

A family is automatically exempt from the minimum rent requirements for a 90-day period when the family's circumstances fall into any one of the following criteria:

1. When a family has lost eligibility or is awaiting eligibility determination from a Federal, State or local assistance program;
2. When the family would be evicted because it is unable to pay the minimum rent;
3. When the income of the family has decreased because of changed circumstances, including loss of employment;
4. When a death in the family has occurred; or
5. Other circumstances determined by ECC/HANH to be reasons to waive the minimum rent requirement (collectively, the "Criteria for Minimum Rent Exemption").

If a family is unable to pay the minimum rent because of a financial hardship, the family is eligible for a temporary or long term exemption from the minimum rent requirement and the HAP will be adjusted accordingly.

A temporary hardship exemption exists when none of the above criteria is expected to last for more than 90 days.

A long term hardship exemption exists when at least one of the above criteria is expected to last for more than 90 days.

A family may only receive one hardship exemption from the minimum rent requirement during a twelve month period, unless a participant is elderly, disabled or is enrolled in ECC/HANH's

Family Self-Sufficiency Program. The minimum rent requirement may be waived more than once during a twelve month period if at least one adult member of the household enrolls in the Family Self Sufficiency Program (the FSS Program). Elderly and disabled families are not required to enroll in the FSS Program.

Once ECC/HANH identifies a participant's need for a hardship exemption from the minimum rent requirement or the family requests such exemption, the minimum rent shall be suspended immediately for a period of 90 days.

### **Initiation of Hardship Exemption Review**

An application for Exemption from Minimum Rent may originate from either an ECC/HANH employee or the participant family.

ECC/HANH employees must complete and apply for Exemption from Minimum Rent on behalf of a participant family whenever any evidence exists that the family falls into any one of the Criteria for Minimum Rent Exemption (as set forth above).

A participant family also has the right to request a hardship exemption from minimum rent. Such request must be in writing and must state the family circumstances that qualify the family for a hardship exemption.

### **Notification of the Right to a Hardship Exemption**

ECC/HANH will notify all families of the ability to receive a hardship exemption from minimum rent and the procedures for applying for such a hardship exemption in the Application for Exemption from Minimum Rent, a copy of which will be provided to participants at lease up and at each recertification appointment or mailed to participants for interim recertifications.

ECC/HANH will also notify all families in writing of the ability to receive a hardship exemption from minimum rent and the procedures for applying for such a hardship exemption in the following documents: participant rent change notifications, the Application for Exemption from Minimum Rent and all form documents related to the hardship exemption process.

ECC/HANH will also notify all families in all of the above documents that all families that are exempt from the minimum rent requirements will be referred to the Family Self Sufficiency (FSS) Program in order to assist the family in moving toward self-sufficiency. Elderly and disabled families are not required to participate in the FSS program.

### ***Exceptional Expenses***

1. **Applicability-** Deductions permitted under 24 CFR Part 5.611(a) shall be permitted only to the extent the sum of anticipated deductions permitted under said Part 5.611(a) for the year are expected to equal or exceed \$2,000. Families with Exceptional Expenses that equal or exceed \$2,000 may request a rent deduction. The amounts of expenses are set in \$2,000 tiers. This allows ECC/HANH to move away from having to verify every dollar of every deduction. Participants will no longer be required to provide documentation for every

dollar of expenses, but, instead, participants need only provide documentation sufficient to the expenses of the appropriate tier.

The amount of the rent deduction is established at the mid-range of each tier. Families with Exceptional Expenses will receive a reduction in the rental payment as set forth on the following table:

Families must have more than two qualifying dependents in order to qualify for additional Dependent Deductions

The Elderly/Disabled deductions shall not be used in determining Exceptional Expenses.

Dependent deduction shall only be allowed for families with more than two dependents since the standard amount of this deduction has been included in the determination of the percentage used to calculate tenant rent.

<b>Tiered Amount of Exceptional Expenses</b>	<b>Monthly Rent Reduction</b>
\$ 2,000 - \$ 3,999	\$ 75 (equivalent to \$3,000 deduction)
\$ 4,000 - \$ 5,999	\$ 125 (equivalent to \$5,000 deduction)
\$ 6,000 +	Hardship Review

Elderly persons and persons with disabilities always have the right to request a Reasonable Accommodation(s).

Rents are determined in accordance with the methods and income measures set forth in ECC/HANH's Public Housing Rent Simplification Policies.

## ATTACHMENT C-1

### EXCEPTION TO HCV REGULATIONS

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Annual Income	24 CFR Part 5.609(a)(4)	Any income derived from an asset, to which any member of the family has access.	Excludes assets, from the determination of annual income, to extent the amount is \$50,000 or less. All income earned by a fulltime student will be excluded. All income earned by a family from adoption assistance will be excluded.
Income Exclusion for Person Enrolled in FSS Program	24 CFR Part 5.609(b)(1)	Incremental earnings and benefits to any family member, received from participation in a qualifying <b>State or local employment training</b> program, (including training programs not affiliated with a local government); and training of a family member participating as resident management staff.	Exclude 100 percent of any incremental earnings from wages or salaries earned by any family member during the first year of FSS program participation, 75% in 2 <sup>nd</sup> year, 50% in 3 <sup>rd</sup> year, 25% in 4 <sup>th</sup> year and 0% in 5 <sup>th</sup> year, as long as the household is enrolled in the FSS Program. This will not exceed 5 years.  Additionally, the current exclusion covering incremental earnings of any family participating in a state or local program will be expanded to include any qualifying <b>federal</b> program, whether or not the member is enrolled in the FSS program.

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Business Income for Resident Owned Businesses	24 CFR Part 5.609(b)(2)	<p>The net income from the operation of a business or profession is included in determining annual income.</p>	<p>During the first year of enrollment in the FSS program, exclude 100 percent of any net income derived from the operation of a business; provided the business qualifies as a <b>resident owned business</b> under 24 CFR Part 963.5.</p> <ul style="list-style-type: none"> <li>• 50 percent exclusion during the second year;</li> <li>• 25 percent exclusion the third year.</li> </ul>
Earned Income Disallowance for Persons with Disabilities	24 CFR Part 5.617(a)	<p>Incremental income earned by a previously unemployed disabled person in the 12 months prior to becoming employed, provided the increase in income is the result of;</p> <p>(1) employment of a family member, previously unemployed for one or more years prior to employment;</p> <p>(2) increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or</p> <p>(3) result of new employment or increased earnings of a family member during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families.</p>	<p>Eliminated since any family member that enrolls in the FSS program will have all incremental earnings excluded as long as the member remains in the FSS program.</p>

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Mandatory Deductions	24 CFR Part 5.611	<p>(1) \$480 for each dependent;</p> <p>(2) \$400 for any elderly family or disabled family;</p> <p>(3) The sum of the following, to the extent the sum exceeds three percent of annual income:</p> <p>(i) Un-reimbursed medical expenses of any elderly family or disabled family; and</p> <p>(ii) reimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities</p> <p>(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.</p>	Eliminate all mandatory deductions.
Additional (Exception Expenses Deductions)	24 CFR 5.611	None	Families with verifiable deductions that or exceed of \$2,000 will be allowed to request that these additional expenses be used in determining TTP. These verifiable deductions must equal or exceed \$2,000 and shall be the sum of: Mandatory Deductions determined in accordance with Section 5.611 (a), plus non-reimbursed utility expenses (except telephone).

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Total Tenant Payment	24 CFR 5.628	<p>Determining total tenant payment (TTP). Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:</p> <ul style="list-style-type: none"> <li>(a) 30 percent of the family's monthly adjusted income;</li> <li>(b) 10 percent of the family's monthly income;</li> <li>(c) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or</li> <li>(d) The minimum rent, as determined in accordance</li> </ul>	TTP to be based upon (1) income-tiered TTP structure or the minimum TTP \$50 for a family with income of up to \$2,500 annually

<b>Topic</b>	<b>Exceptions to HCV Program Regulations</b>	<b>Current Policy</b>	<b>Alternative MTW Policy for Housing Choice Voucher Program</b>
		with Sec. 5.630.	
Hardship Provision	24 CFR 5.630(b)	A family may be exempt from minimum rent as follows: (i) When the family has lost eligibility or is waiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen; (ii) When the family would be evicted because it is unable to pay the minimum rent; (iii) When the income of the family has decreased because of changed circumstances, including loss of employment.	A family whose shelter expenses, plus unreimbursed medical, child care and disability expenses exceed 40 % of annual income or whose medical, child care or disability expenses of \$6,000 or more annually may seek hardship.
Minimum Rent	24 CFR 5.630	\$25.00 for HCV. \$50.00 for LIPH	HCV increased from \$25.00 a month to \$50.00 a month so that LIPH and HCV have same minimum rent amount.
Utility Allowances and Reimbursements	24 CFR 5.632(a) and (b)	Tenant Paid Utilities to be deducted from TTP to determine tenant rent.	No change. Tenant paid utilities to be deducted from TTP to determine tenant rent.
Medical Deductions	24 CFR 5.611(c)		No longer applicable unless they exceed applicable threshold.
Annual Reexamination of Income and Family Composition	24 CFR 982.516	Reexamination of income must occur every year, except every two years for elderly or disabled households.	Reexamination of family income will occur every three years for Elderly or Disabled families and every two years for all other families, instead of every year.  Reexamination of family composition will only

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
			occur if a family notifies ECC/HANH of a change in family composition since this will affect the determination of appropriate size unit. Annual update of changes in family composition for persons 18 years of age and older that are added or subtracted from the family. ECC/HANH will do UIV and submit a 50058 annually.
Interim Reexamination	24 CFR 982.516	<p>A family may request an interim reexamination of family income for any changes since the last annual reexamination.</p> <p>ECC/HANH must conduct the interim reexamination within a reasonable time period after the family request. Currently, family must report any change in income that exceeds \$200 or more a month.</p>	<p>A family may request a maximum of three interim re-examinations within a 12-month period, with the exception of those conditions where they are required to report certain changes in family composition or certain changes in family income.</p> <p>A family, except for elderly or disabled, may only make <b>one</b> request for an <b>interim</b> for a hardship exemption each 12 months, unless one (1) household member is enrolled in the FSS program.</p>
Verification of Wages,	24 CFR 5.659	ECC/HANH must obtain and document in the family's file third party verification of the following factors, or	Only a self-certification will be required for income up to and

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Salaries and Assets below \$5,000 and Assets below \$50,000		<p>must document in the file why third-party verification was not available:</p> <p>(1) Reported family annual income;</p> <p>(2) The value of assets;</p> <p>(3) Expenses related to deductions from annual income; and</p> <p>(4) Other factors that affect the determination of adjusted income.</p>	<p>including \$5,000. For income above \$5,000 two most recent pay stubs or a W-2 or 1099 dated within 90 days of effective date of re-examination.</p> <p>ECC/HANH will continue to conduct EIV or UIV.</p>
Determination of Tenant Total Payment (TTP)	24 CFR 5.628	<p>Determining total tenant payment (TTP). Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:</p> <p>(1) 30 percent of the family's monthly adjusted income;</p> <p>(2) 10 percent of the family's monthly income;</p> <p>(3) if the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or</p> <p>(4) The minimum rent</p>	<p>TTP based upon income-tiered approach. No family shall be subject to an increase in TTP greater than \$25.00 a month during the second-year family is of the Rent Simplification Policy.</p> <p>The increase in TTP during the third year of the Rent Simplification Policy shall not exceed \$50 a month.</p> <p>The increase in TTP during the fourth year of the Rent Simplification Policy shall not \$75 a month.</p> <p>The increase in TTP during the fifth year shall not exceed \$100 a month above the monthly TTP in the year immediately preceding the implementation of Rent Simplification Policy.</p>

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
			<ul style="list-style-type: none"> <li>• <b>These limitations on rent increase</b> shall only apply to increases in TTP that result from the implementation of the Rent Simplification Policy and not rent increases that result from changes in family composition or changes in family income.</li> </ul>
Annual Inspections	24 CFR Part 982.405(a)	<p>ECC/HANH must inspect each unit annually during Section 8 assisted occupancy.</p> <p>24 CFRP Part 982.405 (a) states that: The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS. (See §982.305(b)(2) concerning timing of initial inspection by the PHA.)</p>	<p>ECC/HANH will no longer inspect every unit every year, but will instead inspect units every two years, unless the first unit inspection conducted after the implementation of the Rent Simplification Policy shows that the unit;</p> <p>(1) failed an inspection, or</p> <p>(2) the unit had a failed inspection in the three</p>

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
			<p>Years prior to the implementation of the Rent Simplification Policy.</p> <p>A unit must have three consecutive years without a failed inspection to qualify for the bi-annual inspection.</p> <p>Units for which landlords are requesting increases in HAP payment will also be inspected prior to ECC/HANH granting any such increase.</p>
Waiver of SEMAP Indicator	24 CFR Part 985.3(c).		<p><b>Determination of Adjusted Income.</b> Beginning October 1, 2007, Total Tenant Payment will be based Annual Income by income tiers. Additional, ECC/HANH will no longer include assets of less than \$50,000 is the determination of Annual Income. There will no longer be any Mandatory Deductions; therefore, a waiver of this Section is required by HUD.</p>

Topic	Exceptions to HCV Program Regulations	Current Policy	Alternative MTW Policy for Housing Choice Voucher Program
Waiver of SEMAP Indicator	24 CFR Part 985.3(m)		<p><b>Annual HQS Inspections.</b> This indicator shows whether the PHA inspects each unit under contract at least annually.</p> <p>24 CFR 982.405(a).</p> <p>ECC/HANH will no longer inspect every unit every year, but will instead inspect a unit every two years unless the unit's inspection history indicates a need for an annual inspection as set forth above.</p>
Waiver of SEMAP Indicator	24 CFR Part 985.3 (n)		<p><b>Lease-Up.</b> This indicator shows whether or not ECC/HANH enters HAP contracts for the number of units reserved under ACC for at least one year. ECC/HANH currently has a waiver of this provision and request that it be extended until September 30, 2008</p>
Portability procedures	24 CFR Part 982.355 (c) (1)	ECC/HANH would like to have the ability to re-determine the eligibility of adult household members by performing a background check to ensure that family members do not have a criminal background.	

**Housing Choice Voucher (HCV) Program  
Rent Simplification Rent Tier Schedule**

Utility Allowance						
Income Range						
\$0	\$2,499	\$50		\$34,500	\$35,499	\$819
\$2,500	\$3,499	\$59		\$35,500	\$36,499	\$843
\$3,500	\$4,499	\$83		\$36,500	\$37,499	\$867
\$4,500	\$5,499	\$107		\$37,500	\$38,499	\$891
\$5,500	\$6,499	\$131		\$38,500	\$39,499	\$914
\$6,500	\$7,499	\$154		\$39,500	\$40,499	\$938
\$7,500	\$8,499	\$178		\$40,500	\$41,499	\$962
\$8,500	\$9,499	\$202		\$41,500	\$42,499	\$986
\$9,500	\$10,499	\$226		\$42,500	\$43,499	\$1,009
\$10,500	\$11,499	\$249		\$43,500	\$44,499	\$1,033
\$11,500	\$12,499	\$273		\$44,500	\$45,499	\$1,057
\$12,500	\$13,499	\$297		\$45,500	\$46,499	\$1,081
\$13,500	\$14,499	\$321		\$46,500	\$47,499	\$1,104
\$14,500	\$15,499	\$344		\$47,500	\$48,499	\$1,128
\$15,500	\$16,499	\$368		\$48,500	\$49,449	\$1,152
\$16,500	\$17,499	\$392		\$49,500	Above	\$1,176
\$17,500	\$18,499	\$416				
\$18,500	\$19,499	\$439				
\$19,500	\$20,499	\$463				
\$20,500	\$21,499	\$487				
\$21,500	\$22,499	\$511				
\$22,500	\$23,499	\$534				
\$23,500	\$24,499	\$558				
\$24,500	\$25,499	\$582				
\$25,500	\$26,499	\$606				
\$26,500	\$27,499	\$629				
\$27,500	\$28,499	\$653				

\$28,500	\$29,499	\$677				
\$29,500	\$30,499	\$701				
\$30,500	\$31,499	\$724				
\$31,500	\$32,499	\$748				
\$32,500	\$33,499	\$772				
\$33,500	\$34,499	\$796				

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	<del>All sources of income not specifically excluded by the regulations or policy are included.</del> <u>All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].</u>
Children under 18 years of age	<del>Employment income is excluded [24 CFR 5.609(c)(1)].</del> <del>All other sources of income, except those specifically excluded by the regulations or policy, are included.</del> <u>Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].</u> <u>All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].</u>
Full-time students 18 years of age or older (not head, spouse, or cohead)	<del><b>ECC/HANH Policy:</b> All employment income is excluded [24 CFR 5.609(c)(1)].</del> <del>All other sources of income, except those specifically excluded by the regulations or policy, are included.</del> <u>For Non-MTW Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].</u> <u>All sources of unearned income, except those specifically excluded by the regulations, are included.</u>

### Temporarily Absent Family Members

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

#### ECC/HANH Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the

assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### ***Absent Students***

#### **ECC/HANH Policy**

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

### ***Absences Due to Placement in Foster Care***

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

#### **ECC/HANH Policy**

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

### ***Absent Head, Spouse, or Cohead***

#### **ECC/HANH Policy**

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

### **Family Members Permanently Confined for Medical Reasons**

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

#### **ECC/HANH Policy**

ECC/HANH will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent.

If the family certifies that the family member is confined on a permanent basis, they may present, and ECC/HANH will consider, any additional documentation or evidence.

If the family member is expected to be temporarily absent for more than 180 calendar days, ECC/HANH may require reverification of the temporary absent status.

ECC/HANH's decision is subject to reasonable accommodation requirements

## **Joint Custody of Dependents**

### ECC/HANH Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 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, ECC/HANH will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

## **Caretakers for a Child**

### ECC/HANH Policy

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

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases ECC/HANH 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 housing choice voucher 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**

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

## Basis of Annual Income Projection

ECC/HANH generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes ECC/HANH 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)]
- ECC/HANH believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

### ECC/HANH Policy

If ECC/HANH cannot anticipate annual income for a full 12-month period, ECC/HANH will average known sources of income that vary in order to calculate annual income.

If a family member is a seasonal employee, ECC/HANH will average the income across 12 months when annualizing.

**Example 1:** HANH is conducting Mr. Quinn's biennial reexamination. Mr. Quinn works in construction 8 months of the year, earning \$1,500 a month. He is paid cash. The remaining months he receives no income.

HANH will annualize his income:  $\$1,500 \times 8 = \$12,000$  whether or not he is working at the time of his biennial reexamination.

No interim will be conducted if Mr. Quinn was working at the time of his biennial reexamination and then reports that income stopped due to this regular layoff. Nor will an interim be conducted when Mr. Quinn resumes work at this regular job.

**Example 2:** Ms. Marie works as a school bus driver 10 months out of the year earning \$15,000 from this employment. The remaining 2 months, she draws \$1,500 a month in unemployment benefits. HANH will calculate Ms. Marie's annual income to be \$18,000 ( $\$15,000 + \$3,000 (\$1,500 \times 2)$ ).

No interim will be conducted when Ms. Marie starts or stops working.

Income from the previous year may be analyzed to determine the amount to anticipate when third party verification is not available or reliable.

If by averaging, an estimate can be made for those families whose income fluctuates from month-to-month, this estimate will be used so that housing payments will not change from month-to-month.

This method used depends on the regularity, source, and type of income.

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

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

### ECC/HANH Policy

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

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

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If ECC/HANH determines additional information is needed.

In such cases, ECC/HANH 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 ECC/HANH annualized projected income.

When ECC/HANH cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), ECC/HANH 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 ECC/HANH to show why the historic pattern does not represent the family's anticipated income.

### ***Known Changes in Income***

If ECC/HANH 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 ECC/HANH would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

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

## **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made clear that ECC/HANH is not to use EIV quarterly wages to project annual income.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

#### ***Wages and Related Compensation***

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)].

#### **ECC/HANH Policy**

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

#### ***Some Types of Military Pay***

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

### **Types of Earned Income Not Counted in Annual Income**

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

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

#### **ECC/HANH Policy**

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***

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].

#### **ECC/HANH Policy**

All earnings of an adult full-time student (except for the head, spouse, or co-head) are excluded from annual income.

### ***Income of a Live-in Aide***

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

### ***Income Earned under Certain Federal Programs***

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

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

### ***Resident Service Stipend***

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for ECC/HANH 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 ECC/HANH’S governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

### ***State and Local Employment Training Programs***

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

#### **ECC/HANH Policy**

ECC/HANH includes federal employment training programs under this rule along with state and local employment training programs for FSS program participants only.

ECC/HANH 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].

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

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

End of participation in a training program must be reported in accordance with ECC/HANH’s interim reporting requirements.

### ***HUD-Funded Training Programs***

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

#### **ECC/HANH Policy**

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

### ***Earned Income Tax Credit***

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

### ***ECC/HANH’s Incremental Earnings Increase Exclusion for Family Self-Sufficiency Program Participants***

#### **ECC/HANH Policy**

In addition to the federal and HUD required exclusions, ECC/HANH has implemented an agency exclusion for FSS program participants (those families enrolled in the FSS program through execution of a form HUD-52650).

ECC/HANH shall exclude from the determination of Annual Income 100 percent of any incremental earnings increase from wages or salaries earned by any family

member during the first year that family member is enrolled in ECC/HANH's Family Self-Sufficiency Program; 75 percent exclusion for the second year the family member is enrolled in the FSS Program; 50 percent exclusion for the third year the family member is enrolled in the FSS Program; 25 percent exclusion for the fourth year the family member is enrolled in the FSS Program; and no exclusion in the fifth year of enrollment or thereafter.

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

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

#### **Business Expenses**

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

##### ECC/HANH Policy

To determine business expenses that may be deducted from gross income, ECC/HANH 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 ECC/HANH to deduct from gross income expenses for business expansion.

##### ECC/HANH Policy

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

#### **Capital Indebtedness**

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

##### ECC/HANH Policy

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

### **Negative Business Income**

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

### **Withdrawal of Cash or Assets from a Business**

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

#### ECC/HANH Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, ECC/HANH 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**

#### ECC/HANH Policy

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

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

### **Overview**

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

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

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

### **General Policies**

### ECC/HANH Policy

Rent Simplification -ECC/HANH will not include income from assets unless the total market value of all assets for the family equals more than \$50,000.

#### ***Income from Assets***

ECC/HANH 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 ECC/HANH 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) ECC/HANH believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental ~~income~~income, but the property is currently vacant, ECC/HANH can take into consideration past rental income along with the prospects of obtaining a new tenant.

### ECC/HANH Policy

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 ECC/HANH 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 ECC/HANH to make a distinction between an asset's market value and its cash value.

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

### ECC/HANH Policy

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

#### ***Lump-Sum Receipts***

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

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

### ECC/HANH Policy

ECC/HANH will not include income from assets unless the total market value of all assets for the family equals \$50,000 or more. ECC/HANH will then include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income.

Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by ECC/HANH.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for ECC/HANH to establish a passbook rate within 0.75 percent of a national average.
- ECC/HANH must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

#### ECC/HANH Policy

ECC/HANH initially set the imputed asset passbook rate at 0%, within the national rate established by the Federal Deposit Insurance Corporation (FDIC).

ECC/HANH will review the passbook rate annually, in August of each year. The rate will not be adjusted unless the current ECC/HANH rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate. Changes to the passbook rate will take effect on October 1 following the August review.

#### ***Determining Actual Anticipated Income from Assets***

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

#### ***Withdrawal of Cash or Liquidation of Investments***

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

#### ***Jointly Owned Assets***

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

#### ECC/HANH Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, ECC/HANH will count the full value of the asset. A family member

has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, ECC/HANH will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, ECC/HANH 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 ECC/HANH to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

#### ***Minimum Threshold***

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

#### **ECC/HANH Policy**

ECC/HANH 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 recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

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

#### ***Separation or Divorce***

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

#### **ECC/HANH Policy**

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

#### ***Foreclosure or Bankruptcy***

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

## ***Family Declaration***

### **ECC/HANH Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. ECC/HANH may verify the value of the assets disposed of if other information available to ECC/HANH 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.

### **ECC/HANH Policy**

Rent Simplification - For families with a total market value of assets of less than \$50,000, only a self-certification is required to verify the value of assets.

In determining the value of a checking account, ECC/HANH will use current balance.

In determining the value of a savings account, ECC/HANH will use the current balance.

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

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

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

### **ECC/HANH Policy**

In determining the market value of an investment account, ECC/HANH 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), ECC/HANH will calculate asset income based on the earnings for the most recent reporting period.

### ***Equity in Real Property or Other Capital Investments***

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

### ECC/HANH Policy

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

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

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

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

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

### ECC/HANH Policy

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

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

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

## ECC/HANH Policy

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 ECC/HANH determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### ***Trusts***

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

#### *Revocable Trusts*

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

#### *Nonrevocable Trusts*

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

### ***Retirement Accounts***

#### *Company Retirement/Pension Accounts*

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

#### *IRA, Keogh, and Similar Retirement Savings Accounts*

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

### ***Personal Property***

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

#### ECC/HANH Policy

In determining the value of personal property held as an investment, ECC/HANH will use the family's estimate of the value. ECC/HANH 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)].

#### ECC/HANH Policy

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

#### ***Life Insurance***

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

### **6-I.H. PERIODIC PAYMENTS**

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

#### **Periodic Payments Included in Annual Income**

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

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

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

#### ECC/HANH Policy

When a delayed-start payment is received and reported during the period in which ECC/HANH is processing a reexamination, ECC/HANH will adjust the family share and ECC/HANH 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 ECC/HANH.

### **Treatment of Overpayment Deductions from Social Security Benefits**

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

### **Periodic Payments Excluded from Annual Income**

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

#### ECC/HANH Policy

ECC/HANH will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].  
*Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

### **6-I.I. PAYMENTS IN LIEU OF EARNINGS**

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

### **6-I.J. WELFARE ASSISTANCE**

#### **Overview**

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

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

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

#### ***Covered Families***

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

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, ECC/HANH must include in annual income “imputed” welfare

income. ECC/HANH must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

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

### ***Offsets***

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

## **6-I.K. 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**

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

#### ECC/HANH Policy

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

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

If alimony or child support payments actually received are erratic, ECC/HANH will obtain and use as annual income the amount received for the most recent completed twelve months.

### **Regular Contributions or Gifts**

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

#### ECC/HANH Policy

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

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

#### **6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) and FR 5/20/14]**

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

#### **Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]**

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

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

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

To determine annual income in accordance with the above requirements, ECC/HANH will use the definitions of *dependent child*, *institution of higher education*, and *parents* in section 3-II.E, along with the following definitions:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs. [FR 4/10/06, pp. 18148-18150]
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit. [FR 4/10/06, pp. 18148-18150]
- *Tuition and fees* are defined in the same manner in which the Department of Education defines "tuition and fees." [Notice PIH 2015-21]

- The amount of tuition and required fees covering a full academic year most frequently charged to students.
- The amount represents what a typical student would be charged and may not be the same for all students at an institution.
- If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
- Required fees include all fixed sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
- Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

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

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

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

#### **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 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)]

## ECC/HANH Policy

ECC/HANH excludes all amounts of adoption assistance payments.

- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
  - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
  - (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
  - (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
  - (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)

- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

## **PART II: ADJUSTED INCOME**

### **6-II.A. MEDICAL EXPENSES DEDUCTIONS**

Allowable income deductions used to calculate Exceptional Expenses are as follows:

- (1) \$480 for each dependent;
- (2) 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
- (3) Any reasonable child care expenses necessary to enable a member of the family to be employed, seek work, or to further his or her education.

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

#### **Anticipating Expenses**

##### ECC/HANH Policy

Generally, ECC/HANH 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), ECC/HANH will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, ECC/HANH 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. ECC/HANH may require the family to provide documentation of payments made in the preceding year.

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.”

#### ECC/HANH Policy

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

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
<p>Services of medical professionals</p> <p>Surgery and medical procedures that are necessary, legal, non cosmetic</p> <p>Services of medical facilities</p> <p>Hospitalization, long-term care, and in-home nursing services</p> <p>Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor</p> <p>Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</p>	<p>Substance abuse treatment programs</p> <p>Psychiatric treatment</p> <p>Ambulance services and some costs of transportation related to medical expenses</p> <p>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</p> <p>Cost and continuing care of necessary service animals</p> <p>Medical insurance premiums or the cost of a health maintenance organization (HMO)</p>
<p><b>Note:</b> 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.</p>	

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

##### ECC/HANH Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, ECC/HANH 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.B. 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.

#### ECC/HANH Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, ECC/HANH 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 ECC/HANH 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 ECC/HANH to further define and describe auxiliary apparatus [VG, p. 30].

### ***Eligible Auxiliary Apparatus***

#### ECC/HANH Policy

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.

#### ECC/HANH Policy

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, ECC/HANH 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.

#### ECC/HANH Policy

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

### ***Families That Qualify for Both Medical and Disability Assistance Expenses***

#### ECC/HANH Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, ECC/HANH 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.C. CHILD CARE EXPENSE DEDUCTION**

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

### **Clarifying the Meaning of *Child* for This Deduction**

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

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

##### ECC/HANH Policy

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

In evaluating the family’s request, ECC/HANH 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***

##### ECC/HANH Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by ECC/HANH.

#### ***Furthering Education***

##### ECC/HANH Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### ***Being Gainfully Employed***

#### ECC/HANH Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, ~~child care~~childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

ECC/HANH must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

#### ECC/HANH Policy

When the ~~child care~~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, ECC/HANH generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. ECC/HANH may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

### ***Allowable Child Care Activities***

#### ECC/HANH Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, ECC/HANH will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

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

#### ECC/HANH Policy

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

To establish the reasonableness of child care costs, ECC/HANH will use the schedule of child care costs from the local welfare agency. Families may present, and ECC/HANH will consider, justification for costs that exceed typical costs in the area.

## **PART III: CALCULATING FAMILY SHARE AND ECC/HANH SUBSIDY**

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

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

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds ECC/HANH'S applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy ECC/HANH may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

#### ECC/HANH Policy

Under its MTW agreement, ECC/HANH does not calculate 'monthly adjusted income' for HCV families. ECC/HANH determines TTP based on a family's annual income.

In a non-MTW agency, the majority of families' TTP is based on 30% of monthly adjusted income. To best mirror the standard Family Share requirement under 24 CFR 982.305 (a)(5), ECC/HANH converts the family's TTP to equal as closely as possible what would be Monthly Adjusted Income if the TTP were based on 30% of MAI by multiplying the TTP times 3.333.

ECC/HANH then determines 40% of this figure to determine the maximum family share.

#### **ECC/HANH Subsidy [24 CFR 982.505(b)]**

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

##### ECC/HANH Policy

ECC/HANH will make utility reimbursements to the family.

### **6-III.B. APPLYING PAYMENT STANDARDS [24 CFR 982.505]**

#### **Overview**

ECC/HANH'S schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of ECC/HANH'S payment standards. The establishment and revision of ECC/HANH'S payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under ECC/HANH'S subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If ECC/HANH has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, ECC/HANH must use the appropriate payment standard for the exception area.

ECC/HANH is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, ECC/HANH will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

#### **Changes in Payment Standards**

When ECC/HANH revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### ***Decreases***

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. ECC/HANH will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, ECC/HANH will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** ECC/HANH will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by ECC/HANH at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. ECC/HANH will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless ECC/HANH has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

### ***Increases***

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

### ***Changes in Family Unit Size***

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### ***Reasonable Accommodation***

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, ECC/HANH is allowed to establish a higher payment standard for the family within the basic range.

## **6-III.C. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

### **Overview**

An ECC/HANH-established utility allowance schedule is used in determining family share and ECC/HANH subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using ECC/HANH subsidy standards, whichever is the lowest of the two [FR Notice 06/25/14]. See Chapter 5 for information on the ECC/HANH's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation**

HCV program regulations require an ECC/HANH to approve a utility allowance amount higher than shown on ECC/HANH'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, ECC/HANH will approve an allowance for air-conditioning, even if ECC/HANH has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide ECC/HANH 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, ECC/HANH must use the ECC/HANH current utility allowance schedule [24 CFR 982.517(d)(2)].

#### ECC/HANH Policy

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.D. 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. ECC/HANH must prorate the assistance provided to a mixed family. ECC/HANH will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the ECC/HANH subsidy for a family is calculated at \$500 and two of four family members are ineligible, the ECC/HANH 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 260.31<sup>1</sup>; and

(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).

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<sup>1</sup> Text of 45 CFR 260.31 follows.

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

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

### 24 CFR 5.609

*(c) Annual income does not include the following:*

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

specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA'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;

#### ECC/HANH Policy

ECC/HANH also applies the above income exclusion to incremental earnings and benefits resulting from participation in a qualifying federal 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);

ECC/HANH Policy

ECC/HANH excludes all earnings of each adult full-time student (excluding the head of household and spouse)

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

ECC/HANH Policy

ECC/HANH excludes all amounts of adoption assistance payments.

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly 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 Section 6-I.M. for a list of benefits that qualify for this exclusion.]

### EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

#### 24 CFR 5.603(b) Net Family Assets

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

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

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor.

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

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

## EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

### 24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

*(a) Applicable programs.* The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

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

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

*(c) Disallowance of increase in annual income—*

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

*(d) Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

## EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

### 24 CFR 5.615

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

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

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

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

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

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

*Specified welfare benefit reduction.*

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

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

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

**(c) Imputed welfare income.**

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

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

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

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

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

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA 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 the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the

basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

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

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

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA 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, Notice PIH 2010-19]

#### **INTRODUCTION**

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

ECC/HANH will follow the verification guidance provided by HUD in Notice PIH 2010-19 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary ECC/HANH policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

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

#### **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 and Notice PIH 2023-27]**

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

##### **Consent Forms**

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

All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While ECC/HANH must use form HUD-9886, this form does not release all the information necessary to the administration of the program. ECC/HANH has also developed its own release forms to cover all other necessary information.

**Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]**

All adult applicants and participants must sign the form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission and at every annual certification. ECC/HANH is an MTW agency and received HUD approval for HUD form 9886 to be signed every 36 months.

The form must be signed:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or ECC/HANH in administrative instructions.

ECC/HANH has the discretion to establish policies around when family members must sign consent forms when they turn 18. ECC/HANH must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

**ECC/HANH Policy**

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and ECC/HANH 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).

ECC/HANH may obtain any financial record from any financial institution, whenever ECC/HANH determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)]. The terms "financial record" and "financial institution" are defined in the Right to Financial Privacy Act (12 U.S.C. 3401).

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to ECC/HANH to revoke consent.

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

If any family member who is required to sign a consent form fails to do so, ECC/HANH 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 ECC/HANH procedures.

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

5.232(c)]. ECC/HANH may not process interim or annual reexaminations of income without the family's executed consent forms.

#### ECC/HANH Policy

ECC/HANH has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with ECC/HANH policy.

In order for a family to revoke their consent, the family must provide written notice to ECC/HANH.

Within 10 business days of the date the family provides written notice, ECC/HANH will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, ECC/HANH will notify their local HUD office.

### **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

#### **HUD's Verification Hierarchy [Notice PIH 2023-27]**

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires ECC/HANH to use the most reliable form of verification that is available and to document the reasons when ECC/HANH uses a lesser form of verification.

#### ECC/ECC/HANH Policy

In order of priority, the forms of verification that the ECC/ECC/HANH will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

- Up-front Income Verification (UIV) using a non-HUD system

- Written Third-Party Verification (may be provided by applicant or participant)

- Written Third-party Verification Form (verification form sent directly to a third-party)

- Oral Third-party Verification

- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

#### **Requirements for Acceptable Documents**

#### ECC/ECC/HANH Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the date they are provided to the ECC/HANH. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

The ECC/HANH staff member 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 the copy

Any family self-certifications must be made in a format acceptable to the ECC/HANH.

#### **Verification of Family Income of up to \$5,000**

##### ECC/HANH Policy

Under its MTW Plan, for families with income of up to \$5,000,

ECC/HANH will accept a self-certification.

#### **File Documentation**

ECC/HANH 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 ECC/HANH 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.

##### ECC/HANH Policy

The ECC/HANH 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 exceptional expenses

When ECC/HANH is unable to obtain third-party verification, ECC/HANH will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2010-19].

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

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

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until ECC/HANH 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 ECC/HANH.

See Chapter 6 for the ECC/HANH's policy on the use of UIV/EIV to project annual income.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

ECC/HANH must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27 and administrative guidance issued by HUD.

The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and IVT Reports***

ECC/HANH are required to obtain an EIV Income and IVT report for each family any time the ECC/HANH conducts an annual reexamination. However, ECC/HANH is not required to use the EIV Income and IVT reports:

- At annual reexamination if ECC/HANH used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the ECC/HANH must pull the report within 120 days of the effective date of the annual reexamination.

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

#### **ECC/HANH Policy**

ECC/HANH will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. ECC/HANH will ensure that all EIV Income reports are pulled within 120 days of the effective date of the annual reexamination.

Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to

verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable bi/triennial or interim reexamination documents.

When the ECC/HANH determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

#### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly. ECC/HANH must review this information at annual reexamination

ECC/HANH requires families to undergo interim reexaminations for earned income increases.

##### ECC/HANH Policy

In accordance with ECC/HANH policies in Chapter 11, ECC/HANH does not process interim reexaminations for families who have increases in earned income. Except for instances in which the participant went from zero income to income. ECC/HANH will only review the New Hires Report at annual reexamination.

***No Income Reported by HHS or SSA Report*** This report is a tool for ECC/HANH to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. ECC/HANH obtains written, third-party verification of any income reported by the participant. ECC/HANH must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

##### ECC/HANH Policy

ECC/HANH will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

ECC/HANH will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, ECC/HANH may require that family members provide verifications or sign release forms in order to obtain additional verification.

When ECC/HANH determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

#### ***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

ECC/HANH are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

#### ECC/HANH Policy

The ECC/HANH will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The ECC/HANH will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the ECC/HANH determines that discrepancies exist due to ECC/HANH errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

#### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. ECC/HANH is required to review the report at least quarterly.

#### ECC/HANH Policy

ECC/HANH will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, ECC/HANH must immediately send a letter to the head of household, if it is a household member or a member of the household if it is the head of household. The letter will advise that an interim must be processed to remove the deceased member from the household composition.

When the only remaining household member is the live-in aide, ECC/HANH will advise the live-in-aide that they will need to vacate the unit. The live-in aide is not entitled to the voucher or unit and is not eligible for any rental assistance or continued occupancy. ECC/HANH may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

If the deceased person is the head of household and there are no other members in the household, ECC/HANH will contact the emergency contact person to confirm the death of the head of household. ECC/HANH must also notify the owner in writing if the head of household is deceased and is the only household member.

ECC/HANH will process an End of Participation (EOP) recertification and may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

#### ***Other EIV Reports [Notice PIH 2023-27]***

ECC/HANH is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly

#### **Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages ECC/HANH to utilize other upfront verification sources.

#### ECC/HANH Policy

The ECC/HANH will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

The Work Number

Department of Social Services (DSS)

Department of Labor (DOL) (provides access to State Wage Information Collection Agency (SWICA) data

Child Support Enforcement database

Background check services

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

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to ECC/HANH by the family. If written third-party verification is not available, ECC/HANH must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

##### **Written Third-Party Verification [Notice PIH 2018-18]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

ECC/HANH is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

ECC/HANH may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### ECC/HANH Policy

Third-party documents provided by the family must be dated within 60 days of the ECC/HANH request date. When a request for documentation is mailed to a family, including in a notice of a scheduled initial eligibility or bi/triennial interview, the date of request is the date of the mailed letter.

If the ECC/HANH determines that third-party documents provided by the family are not acceptable, the ECC/HANH will explain the reason to the family and request additional documentation.

As verification of earned income, the ECC/HANH will require the family to provide the two most current, consecutive pay stubs. If the two paystubs do not provide the information needed to best anticipate annual income, such as in the case of extreme fluctuation of hours worked, the ECC/HANH may request up to two additional paystubs.

#### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, ECC/HANH must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

ECC/HANH may mail, fax, or e-mail third-party written verification form requests to third-party sources.

##### ECC/HANH Policy

The ECC/HANH will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by ECC/HANH.

#### **Oral Third-Party Verification [Notice PIH 2018-18]**

For third-party oral verification, ECC/HANH contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

ECC/HANH should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

##### ECC/HANH Policy

In collecting third-party oral verification, ECC/HANH staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the ECC/HANH will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

#### **When Third-Party Verification is Not Required [Notice PIH 2018-18]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

##### ECC/HANH Policy

If the family cannot provide original documents, the ECC/HANH will pay the service charge required to obtain third-party verification, unless it is not cost effective in which

case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

#### ***Imputed Assets***

HUD permits ECC/HANH to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

##### ECC/HANH Policy

The ECC/HANH will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

#### **7-I.E. SELF-CERTIFICATION**

Self-certification, or “tenant declaration,” is used as a last resort when ECC/HANH is unable to obtain third-party verification.

When ECC/HANH relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

##### ECC/HANH Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the ECC/HANH.

The ECC/HANH may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the ECC/HANH and must be signed by the family member whose information or status is being verified.

## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### ECC/HANH Policy

The ECC/HANH will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card Voter's registration Official Student Identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the ECC/HANH'S discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the ECC/HANH and be signed in the presence of an ECC/HANH representative or ECC/HANH notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the ECC/HANH has reason to doubt the identity of a person representing him or herself to be a participant.

#### **Verification to reflect gender change and name change**

Families that want to change a sex designator on a household member in the family composition can do so by submitting supporting documentation.

#### ECC/HANH Policy

If a household member wishes to change their name or sex designator the following documents must be submitted

- a certified copy of a court order granting your legal name change/ Sex designator or amend the sex designation on the birth certificate
- an updated Social Security Card that reflects a name change

#### **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2018-24]**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010 and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

ECC/HANH must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)

- An original SSA-issued document, which contains the name and SSN of the individual

- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

ECC/HANH may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

##### ECC/HANH Policy

The ECC/HANH will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the ECC/HANH within 90 days.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. ECC/HANH may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if ECC/HANH determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period ECC/HANH is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

##### ECC/HANH Policy

The ECC/HANH will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

ECC/HANH Policy

The ECC/HANH will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," ECC/HANH may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

ECC/HANH Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the ECC/HANH will not remove and destroy copies of documentation accepted as evidence of social security numbers.

**7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

ECC/HANH Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the ECC/HANH 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.

ECC/HANH Policy

Families are required to verify relationships as detailed below. Exceptions may be made by ECC/HANH Supervisors and Management on a case-by-case basis.

**Marriage**

ECC/HANH Policy

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**

#### ECC/HANH Policy

The ECC/HANH will require the family to provide documentation of 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**

#### ECC/HANH Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

The ECC/HANH will consider any of the following as verification:

- Court documents demonstrating that a husband or wife has instituted divorce action or legal separation.
- An order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent payments, drivers' license, or lease or rental agreement, if available.
- Department of Labor records, or records of another public agency, obtained through third-party verification that indicates the new address of the family member.

If no other proof can be provided, the ECC/HANH will accept a Notarized Statement from the family and may conduct home visits if necessary, to verify the absence of an adult as reported.

If the adult family member is incarcerated, a document from the Court or prison should be provided.

ECC/HANH may also verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

## **Foster Children and Foster Adults**

### ECC/HANH Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **Guardianship of Minor Children**

### ECC/HANH Policy

Documentation that an adult family member has guardianship or custody of minor child(ren), which could include but is not limited to, two of any of the following:

Verification from DSS, DCF, Social Security Administration proof of payee, or other governmental agency, documentation of legal custody or guardianship, notarized certification signed by the absent parent or in loco parentis, school records, or other official document listing minor child(ren) under the tenant's guardianship or custody.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

### **General Requirements**

#### ECC/HANH Policy

The ECC/HANH requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports childcare expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education*.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

#### ECC/HANH Policy

In accordance with the verification hierarchy described in section 7-1.B, the ECC/HANH will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in section 3-II.E.

The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the ECC/HANH cannot verify at least one of these exemption criteria, the ECC/HANH will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the ECC/HANH will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

### ***Independent Student***

#### ECC/HANH Policy

The ECC/HANH will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

### **7-II.F. DOCUMENTATION OF DISABILITY**

ECC/HANH must verify the existence of a disability in order to allow certain income disallowances and deductions from income. ECC/HANH is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. ECC/HANH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If ECC/HANH receives a verification document that provides such information, ECC/HANH will not place this information in the tenant file. Under no circumstances will ECC/HANH request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability

- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

#### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

##### ECC/HANH Policy

For family members claiming disability who receive disability benefits from the SSA, the ECC/HANH will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the ECC/HANH will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the ECC/HANH 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](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter, they will be required to provide it to ECC/HANH.

#### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

##### ECC/HANH Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

### **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

#### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and ECC/HANH verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

ECC/HANH may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

### ECC/HANH Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the ECC/HANH receives information indicating that an individual's declaration may not be accurate.

## **Eligible Immigrants**

### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

### ***ECC/HANH Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, ECC/HANH must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

ECC/HANH will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

ECC/HANH must verify any preferences claimed by an applicant that determined placement on the waiting list.

### ECC/HANH Policy

The ECC/HANH will verify preferences as follows:

#### **1. Displaced by Government Action**

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following:

- a. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from

ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA).

Commented [ER1]: Discuss with the team

b. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons. i.e. Fire Dept, LCI

c. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined. Emergency event resulting in the displacement of persons needing housing assistance.

- i. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from buildings condemned for health and safety reasons, an including from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA)
- ii. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons;
- iii. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or an emergency defined event resulting in the displacement of persons needing housing assistance.

## 2. ECC- Reasonable Accommodation

Reasonable Accommodation for disability issues under the Fair Housing Act for residents currently residing in an ECC/HANH public housing owned unit who require an accessible unit as a reasonable accommodation where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH owned unit. The reasonable accommodation has been approved via the ECC/HANH Reasonable process. This includes ECC/HANH LIHTC, PBV and RAD/PBV units managed by 3<sup>rd</sup> party entities.  
public housing unit.

## 3. ECC - Violence Against Women Act (VAWA)

Violence Against Women Act (VAWA) for applicants on the LIPH waitlist and LIPH residents who are victims of domestic violence, dating violence, sexual assault or stalking including LIPH residents and applicant families claiming protections under the Violence Against Women Act (VAWA).

See the VAWA preference policy for more information.

## 4. Documented Witness Protection

For persons or families that are in a documented Witness Protection Program. Documentation to be provided by the appropriate law enforcement agency.

## **5. Special Circumstances**

An individual or family currently residing in an ECC/HANH owned unit that are in circumstances that present an imminent risk to their life, health or safety, and where Housing Choice Voucher assistance is the primary mechanism for remedying the emergency situation and/or households in other housing emergency circumstances. Only a very limited number of admissions each year will be made under this preference category, based on voucher availability. Special circumstance cases require submission of a written petition by the applicant or advocate along with documentation of the special circumstance and must have the written approval of the President.

### **• LIPH Emergency – Health and Safety Dwelling**

Currently residing in an ECC/HANH public housing unit where dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and the transfer to another public housing unit or LIHTC/PBV or RAD/PBV development is not available, where necessary repairs cannot be made within a reasonable time, or a unit does not meet the needs of the family. At the President's discretion.

**Commented [ER2]:** Do we want to add this? It's in Chapter 19?

### **5.6.LIPH-ECC - Crime and Safety**

An individual or family currently residing in an ECC/HANH public housing unit, LIHTC/PBV or RAD/PBV unit who are in a situation involving crime and safety, where transfer of the family to another public housing, LIHTC/PBV or RAD/PBV development does not meet the needs of the family due to other situations involving crime and safety.

### **6.7.Homeless**

For individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN) for RAD/PBV or project-based developments with homeless requirements or tenant-based vouchers TBVs, per the MOU with the CAN.

### **7.8.Supportive Housing**

For individuals and families who meet the HUD definition of homeless and are direct referrals for project-based (PBV) or tenant-based (TBV) Efforts to end Homelessness TBV and PBV per the MTW initiatives.

#### **NOTE:**

Supportive Housing and Homeless are preferences but are established as separate waiting lists in the ECC/HANH Wait List systems.

## **8. Emergency Housing Vouchers**

### **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 ECC/HANH policies that supplement the general verification procedures specified in Part I of this chapter.

#### **7-III.A. EARNED INCOME**

##### **Tips**

###### ECC/HANH Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

##### **Wages**

###### ECC/HANH Policy

For earnings from wages and salaries where Annual Income for the prior year is up to \$5,000.00, where UIV is unavailable, self-certification from the family is the only form of verification required.

As verification of earned income, for earnings from wages and salaries in excess of \$5,000.00 the ECC/HANH will require the family to provide the two most current, consecutive pay stubs. If the two paystubs do not provide the information needed to best anticipate annual income, such as in the case of extreme fluctuation of hours worked, the ECC/HANH may request up to two additional paystubs.

At ECC/HANH's discretion, ECC/HANH may also require the family to provide the most recent W-2 or 1099.

#### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

###### ECC/HANH Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The ECC/HANH will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the ECC/HANH may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the ECC/HANH will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the ECC/HANH will require the family to provide documentation of income and expenses for this period and use that information to project income.

#### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

##### **Social Security/SSI Benefits**

To ensure consistency in the determination of annual Social Security and SSI income, ECC/HANH is required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

##### ECC/HANH Policy

To verify the SS/SSI benefits of applicants, the ECC/HANH will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the ECC/HANH will help the applicant request a benefit verification letter from SSA's Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter, they will be required to provide it to ECC/HANH.

To verify the SS/SSI benefits of participants, the ECC/HANH will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the ECC/HANH will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the ECC/HANH will help the participant request a benefit verification letter from SSA's Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter, they will be required to provide it to ECC/HANH.

#### **7-III.D. ALIMONY OR CHILD SUPPORT**

#### ECC/HANH Policy

The methods the ECC/HANH will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority:

Child Support database

Copies of the receipts and/or payment stubs for the 60 days prior to ECC/HANH request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

**Note:** Families are not required to undertake independent enforcement action.

### **7-III.E. ASSETS AND INCOME FROM ASSETS**

#### ECC/HANH Policy

*Assets Valued at \$50,000 or less.*

For families with a total market value of assets of \$50,000 or less, only a self-certification of assets shall be required.

#### **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. ECC/HANH needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### ECC/HANH Policy

*Assets Valued at \$50,000 or less Disposed of for Less Than Fair Market Value.*

ECC/HANH will accept a self-certification from the family as verification of assets valued at \$50,000 or less which are disposed of for less than fair market value.

### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

#### ECC/HANH Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the ECC/HANH 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**

#### ECC/HANH Policy

The ECC/HANH will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, the ECC/HANH will accept an original document from the entity holding the account with a date that shows it is the most recent statement.

*Upon* retirement, the ECC/HANH will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the ECC/HANH will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.H. INCOME FROM EXCLUDED SOURCES**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, ECC/HANH is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

ECC/HANH may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if

there is any doubt that a source of income qualifies for full exclusion, ECC/HANH has the option of requiring additional verification.

For partially excluded income, ECC/HANH is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, income excluded under the earned income disallowance).

#### ECC/HANH Policy

The ECC/HANH will accept the family's self-certification as verification of fully excluded income. The ECC/HANH may request additional documentation if necessary, to document the income source.

The ECC/HANH will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.I. ZERO ANNUAL INCOME STATUS**

#### ECC/HANH Policy

The ECC/HANH will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

ECC/HANH defines a Zero Income family as a family receiving no income from any source, or that is receiving only food stamps. A family receiving other types of income, whether included or excluded under regulation or federal statute, is not considered a Zero Income family.

### **7-III.J. STUDENT FINANCIAL ASSISTANCE [Notice PIH 2015-21]**

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, ECC/HANH would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

#### ECC/HANH Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the ECC/HANH will request

written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the ECC/HANH will request written verification of the student's tuition amount.

If the ECC/HANH is unable to obtain third-party written verification of the requested information, the ECC/HANH 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, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents in accordance with ECC/HANH 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 HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### ECC/HANH Policy

If the ECC/HANH is required to determine the income eligibility of a student's parents, the ECC/HANH will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II. E). The ECC/HANH will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to ECC/HANH. The required information must be submitted (postmarked) within 10 business days of the date of ECC/HANH'S request or within any extended timeframe approved by ECC/HANH.

The ECC/HANH 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 deduction requires only that ECC/HANH verify that the family members identified as dependents meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. ECC/HANH must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

### **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**

##### ECC/HANH Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The ECC/HANH will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The ECC/HANH will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, ECC/HANH must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. ECC/HANH 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 ECC/HANH'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.

#### ECC/HANH Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

#### ECC/HANH Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the ECC/HANH will verify:

- The anticipated repayment schedule

- The amounts paid in the past, and

- Whether the amounts to be repaid have been deducted from the family's annual income in past years

### **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### ***Attendant Care***

#### ECC/HANH Policy

The ECC/HANH will accept written third-party documents provided by the family.

If family-provided documents are not available, the ECC/HANH will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

### ***Auxiliary Apparatus***

#### **ECC/HANH Policy**

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the ECC/HANH 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. ECC/HANH will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

ECC/HANH must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### **ECC/HANH Policy**

The ECC/HANH will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense allows a family member, or members to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### ECC/HANH Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

### **7-IV.D. CHILD CARE EXPENSES**

Policies related to 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, ECC/HANH must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

#### **Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. ECC/HANH 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.

#### ECC/HANH Policy

The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

#### **Pursuing an Eligible Activity**

ECC/HANH 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.

#### ECC/HANH Policy

##### *Information to be Gathered*

The ECC/HANH will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

### *Seeking Work*

Whenever possible the ECC/HANH will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the ECC/HANH will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the ECC/HANH any reports provided to the other agency.

In the event third-party verification is not available, the ECC/HANH will provide the family with a form on which the family member must record job search efforts. The ECC/HANH will review this information at each subsequent reexamination for which this deduction is claimed.

### *Furthering Education*

The ECC/HANH will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

### *Gainful Employment*

The ECC/HANH will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

## **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### ECC/HANH Policy

The ECC/HANH will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

The ECC/HANH will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The ECC/HANH will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

### ECC/HANH Policy

The actual costs the family incurs will be compared with ECC/HANH'S established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the ECC/HANH will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS  
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to ECC/HANH.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

**Elderly Noncitizens**

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

**All other Noncitizens**

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
  - “Admitted as a Refugee Pursuant to Section 207”
  - “Section 208” or “Asylum”
  - “Section 243(h)” or “Deportation stayed by Attorney General”
  - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
  - A final court decision granting asylum (but only if no appeal is taken);
  - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  - A court decision granting withholding of deportation; or
  - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

## Chapter 8

### 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 families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits ECC/HANH to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and ECC/HANH established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months for workable families, every 36 months for non-workable families, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, ECC/HANH may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. ECC/HANH still has the option to inspect every unit annually. See Section 8-II.G for further details.

HUD also requires ECC/HANH to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and ECC/HANH requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections ECC/HANH 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 ECC/HANH will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

#### ECC/HANH Policy

For purposes of Part I and Part II, when ECC/HANH obtains the services of an independent agency to perform HQS inspections, the independent agency will be responsible for fulfilling all ECC/HANH's responsibilities as prescribed by HUD except enforcing compliance.

## **PART I: PHYSICAL STANDARDS**

### **8-I.A. GENERAL HUD REQUIREMENTS**

#### **HUD Performance and Acceptability Standards**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 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 ECC/HANH to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, ECC/HANH must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 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 family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

### ECC/HANH Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to ECC/HANH for review.

## **8-I.B. ADDITIONAL LOCAL REQUIREMENTS**

ECC/HANH may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

### ECC/HANH Policy

All units must also meet the local Housing, Building, Health, and Fire codes as set forth by the ordinances of the City of New Haven. In cases of inconsistency between the Codes and HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

## **Thermal Environment [HCV GB p.10-7]**

ECC/HANH 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.

### ECC/HANH Policy

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

### ECC/HANH Policy

As permitted by HUD, ECC/HANH 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. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (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.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

#### ***Floors***

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

#### ***Sinks***

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers.

#### ***Toilets***

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

#### ***Security***

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

## **8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]**

HUD requires ECC/HANH to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of ECC/HANH notification.

### ECC/HANH Policy

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

- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

- Any electrical problem or condition that could result in shock or fire

- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed

- A light fixture is hanging by its wires

- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit

- A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed

- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses

- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections

- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire

- Exposed bare wires or electrical connections

- Any condition that results in openings in electrical panels or electrical control device enclosures

- Water leaking or ponding near any electrical device

- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

- Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Any components that affect the function of the fire escape are missing or damaged

Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency

The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

Absence of a functioning toilet in the unit

Inoperable smoke detectors

Inoperable or missing smoke detectors

Missing or inoperable carbon monoxide detector

Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting

The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases

A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside

A fuel-fired space heater is not properly vented or lacks available combustion air

A non-vented space heater is present

Safety devices on a fuel-fired space heater are missing or damaged

The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by ECC/HANH.

If an owner fails to correct life-threatening conditions as required by ECC/HANH, ECC/HANH will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by ECC/HANH, ECC/HANH will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless ECC/HANH determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

## **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

### **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

## **8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]**

If ECC/HANH is notified by a public health department or other medical health care provider or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, ECC/HANH 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.

### ECC/HANH Policy

In cases where the public health department has already completed an evaluation of the unit, ECC/HANH will make every effort to obtain a copy of this information and forward it to the owner.

Within 30 days after receiving the risk assessment report from ECC/HANH, 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 ECC/HANH will take action in accordance with Section 8-II.G.

ECC/HANH reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

#### **8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]**

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons
- A unit that does not meet these HQS space standards is defined as *overcrowded*.
- A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:
- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If ECC/HANH determines that a unit is overcrowded because of an increase in family size or a change in family composition, ECC/HANH must issue the family a new voucher, and the family and ECC/HANH must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, ECC/HANH 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**

ECC/HANH conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* ECC/HANH conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection on or before the effective date of the HAP Contract.
- *Annual/Biennial Inspections.* HUD requires ECC/HANH to inspect each unit under lease at least biennially or triennially, depending on ECC/HANH policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's biennial or triennial reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

#### **Inspection of ECC/HANH-Owned Units [24 CFR 982.352(b)]**

ECC/HANH must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in an ECC/HANH-owned unit. An ECC/HANH-owned unit is defined as a unit that is owned by ECC/HANH that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by ECC/HANH). The independent agency must communicate the results of each inspection to the family and ECC/HANH. The independent agency must be approved by HUD and may be the unit of general local government for the ECC/HANH jurisdiction (unless ECC/HANH is itself the unit of general local government or an agency of such government).

#### **Inspection Costs**

ECC/HANH may not charge the family or owner for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of ECC/HANH-owned units, ECC/HANH may compensate the independent agency from ongoing administrative fee for inspections performed. ECC/HANH and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

#### **Notice and Scheduling**

The family must allow ECC/HANH to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

##### ECC/HANH Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. 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, ECC/HANH will give as much notice as possible, given the nature of the emergency.

### **Owner and Family Inspection Attendance**

HUD permits ECC/HANH to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

#### ECC/HANH Policy

When a family occupies the unit at the time of inspection an adult family member or an adult representative of the family 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, ECC/HANH will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is 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 fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

#### ECC/HANH Policy

ECC/HANH will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). The 15-day period will be suspended for any period during which the unit the RTA is not complete and is not available for inspection.

#### **Inspection Results and Reinspections**

#### ECC/HANH Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given up to 14 days to correct the deficiencies. If requested by the owner, the time frame for correcting the deficiencies may be extended by ECC/HANH for good cause. The owner will be advised to notify ECC/HANH once repairs are completed.

If the time period for correcting the deficiencies (or any ECC/HANH-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, ECC/HANH will notify the owner and the family that the unit has been rejected and that the family must search for another unit. ECC/HANH may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

## **Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

### HANH Policy

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the inspector will notify the participant or owner (whomever is responsible for the utilities according to the RFTA) to have the utilities turned on. The inspector will schedule a reinspection.

## **Appliances**

### ECC/HANH Policy

If the family is responsible for supplying the stove and/or refrigerator, ECC/HANH 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 ECC/HANH. ECC/HANH will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

## **8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a) and 982.406; Notice PIH 2016-05]**

### ECC/HANH Policy

Each unit under HAP contract will be inspected on an annual, -two year or three year schedule: no later than the effective date of the scheduled biennial or triennial reexamination (see Chapter 11).

## **Scheduling the Inspection**

### ECC/HANH Policy

If an adult family member cannot be present on the scheduled date, the family should request that ECC/HANH reschedule the inspection.

If the family misses the first scheduled appointment without requesting a new inspection date, ECC/HANH will automatically schedule a second inspection. If the family misses two scheduled inspections without ECC/HANH approval, ECC/HANH will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

## **8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]**

ECC/HANH will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. If the reported condition is not life-threatening (i.e., ECC/HANH

would require the owner to make the repair within no more than 30 calendar days), then ECC/HANH must inspect the unit within 15 days of when ECC/HANH received the complaint.

#### ECC/HANH Policy

During a special inspection, ECC/HANH 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 ECC/HANH may elect to conduct a full annual inspection.

### **8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]**

HUD requires an ECC/HANH supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will 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 family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, ECC/HANH will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

#### ECC/HANH Policy

When life-threatening conditions are identified, ECC/HANH 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 the ECC/HANH's notice.

When failures that are not life-threatening are identified, ECC/HANH will provide notification to the owner and the family of the inspection results, via mail, email or landlord portal. The written notice will specify who is responsible for correcting the violation, the time frame within which the failure must be corrected and the notice and form for self-certification of the repairs, in lieu of an in-person reinspection. Generally, not more than 30 days will be allowed for the correction.

The notice of the 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 ECC/HANH approved extension), the owner's HAP will be abated in accordance with ECC/HANH policy.

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any ECC/HANH approved extension, if applicable) the family's assistance will be terminated in accordance with ECC/HANH policy.

Self-certification of repairs by a tenant or landlord is allowed only for non-life-threatening deficiencies. Life threatening deficiencies will require an in-person inspection within 24 hours of the first inspection

### Self- Certification Process

The following section outlines the self-certification process for inspections when a unit has failed non-life safety HQS violations only. In these instances, it is the responsibility of the Landlord and the Tenant(s) to provide the ECC/HANH and/or it's designee with the required self-certification documentation within the repair period confirming that the non-life safety repairs have been completed.

Step	Activity
1	First Bi-Annual/Tri-Annual LCI HQS Inspection – <b>Result - Self Certification - Fail</b>
2	LCI Send out Non-Life Safety Fail Notice with Certification Information
3	Landlords /Tenants have <del>15</del> <u>30</u> days from date of letter to correct deficiencies send submit self-certification to LCI
4	If LCI does not receive the self-certification within <del>15</del> <u>30</u> days, the inspection will be considered to have failed a second time and will go into abatement, the 1st day of the following month ( <b>Self Certification – 2<sup>nd</sup> Fail Abatement</b> ). LCI shall send out Failure to Receive Certification Notice (Final Fail Notice) no more than 15 days after original Non-Life Safety Fail Notice sent to Owner/Tenant if not received.
5	If LCI does not receive the self-certification within <del>25</del> <u>30</u> days from the date of the original HQS Failed Inspection Letter, LCI will process Non-Life-Safety <b>Self Certification Final Fail Termination</b> in Elite. The HAP contract will be terminated and the Tenant will need to move or can remain in the unit if the Landlord/Tenant agree to a new Lease and HAP contract and Initial inspection.
6	NOTE: Unit put into Abatement – no retroactive or additional payments will be made

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 ECC/HANH-approved extension), the owner's HAP will be abated in accordance with ECC/HANH policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any ECC/HANH-approved extension, if applicable) the family's assistance will be terminated in accordance with ECC/HANH policy (see Chapter 12).

## **Extensions**

For conditions that are life-threatening, ECC/HANH cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, ECC/HANH may grant an exception to the required time frames for correcting the violation, if ECC/HANH determines that an extension is appropriate [24 CFR 982.404].

### ECC/HANH Policy

Extensions will be granted in cases where ECC/HANH has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days once the weather conditions have subsided.

## **Reinspections**

### ECC/HANH Policy

#### *Life Threatening HQS Deficiencies*

ECC/HANH will conduct reinspections of units which were identified as having a life-threatening HQS failure to verify that the deficiency has been corrected within the required 24-hours.

If ECC/HANH is unable to gain entry to the unit in order to conduct the scheduled reinspection, ECC/HANH will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

#### *Non-Life Threatening HQS Deficiencies*

ECC/HANH will verify that non-life threatening health and safety issues have been cured through accepting an ECC/HANH certification form signed by both the owner (or owner representative) and the family (head of household, spouse or co-head). In order for ECC/HANH to accept the certification as adequate verification, the owner/family must

also provide original receipts or other evidence documenting that the certified repair was completed. In lieu of or in addition to receipts and other evidence, the owner/family may provide pictures of the cured deficiency.

If the deficiencies have not been corrected by the time of the reinspection (life-threatening), or by ECC/HANH imposed deadline (life-threatening and non-life-threatening), ECC/HANH will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with ECC/HANH policies.

## **8-II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with HQS, ECC/HANH 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 ECC/HANH, HUD requires ECC/HANH 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 family's responsibility.

#### ECC/HANH Policy

ECC/HANH will make all HAP abatements effective the first of the month following the expiration of ECC/HANH specified correction period (including any extension).

Payment will resume effective on the day the unit passes inspection.

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 deficiencies that are the family's responsibility.

There will be no more than three (3) inspections per participant/landlord in the case of failed inspections and/or abatement.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

### **HAP Contract Termination**

ECC/HANH must decide how long any abatement period will continue before the HAP contract will be terminated. ECC/HANH should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. ECC/HANH will issue a voucher to permit the family to move to another unit as described in Chapter 10.

#### ECC/HANH Policy

The maximum length of time that HAP may be abated is 60 days. However, if the owner completes corrections and notifies ECC/HANH before the termination date of the HAP

contract, ECC/HANH may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by ECC/HANH is 30 days.

#### **8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by ECC/HANH (and any extensions), ECC/HANH will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

## **PART III: RENT REASONABLENESS [24 CFR 982.507]**

### **8-III.A. OVERVIEW**

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until ECC/HANH has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

#### ECC/HANH Policy

At the family's request, ECC/HANH will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, ECC/HANH will continue processing the Request for Tenancy Approval and lease. If the revised rent involves change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner.

If the owner does not agree on the rent to owner after ECC/HANH has tried and failed to negotiate a revised rent, ECC/HANH will inform the family and owner that the lease is disapproved.

### **ECC/HANH-Owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in an ECC/HANH-owned unit, ECC/HANH must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. An ECC/HANH-owned unit is defined as a unit that is owned by ECC/HANH that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by ECC/HANH). The independent agency must communicate the results of the rent reasonableness determination to the family and ECC/HANH. The independent agency must be approved by HUD and may be the unit of general local government for the ECC/HANH jurisdiction (unless the ECC/HANH is itself the unit of general local government or an agency of such government).

### **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

#### **Owner-Initiated Rent Determinations**

ECC/HANH must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. ECC/HANH (or independent agency in the case of ECC/HANH-owned units) will assist the family with the negotiations upon request. At initial occupancy ECC/HANH 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 family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

#### ECC/HANH Policy

Each unit under HAP contract will be inspected on a two-year or three-year schedule: no later than the effective date of the scheduled biennial or triennial reexamination (see Chapter 11).

After the initial occupancy period, the owner may request a rent adjustment concurrent with the scheduled bi/triennial reexamination effective date.

For rent increase requests after initial lease-up, ECC/HANH 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 ECC/HANH will consider unit size and length of tenancy in the other units.

The owner will be notified of the determination in writing.

#### **Rent Increase to Owners**

Owners may request a rent increase no later than ninety (90) days prior to any Family reexamination month. The request must be submitted via the ECC/HANH designated owner portal. However, ECC/HANH will accept a rental increase on ECC/HANH form as a reasonable accommodation.

#### ECC/HANH Policy

The amount of the rent adjustment to the Owner may be adjusted either up or down, subject to timeliness of submission compliance above.

ECC/HANH conducts reexaminations on an annual, biannual, and triannual basis, permitting rental adjustments only during these reviews.

Effective October 1, 2024, at the initial rent adjustment following this policy change, ECC/HANH will assess rent adjustments based on rent reasonableness and the ECC/HANH current Voucher Payment Standard, aiming to align rents as closely as possible with the current HUD-published Fair Market Rent adopted by ECC/HANH.

Subsequent rent adjustments to owners will be capped at the lesser of:

- The current rent multiplied by the annual adjustment factor percentage published by HUD in effect at the time of request submission; or
- The reasonable rent as most recently determined (or redetermined) by ECC/HANH; or
- The increased dollar amount requested by the Owner.

Prerequisites to a Rent Increase. The annual lease rent may not be increased unless:

- The Owner has requested a specific increase amount at least ninety (90) days before the Family's reexamination month; and
- The request is made in writing on ECC/HANH provided forms for each unit (or in case of PBV each project) for which an increase is being requested; and
- In the preceding year, the Owner has complied with all requirements of the HAP contract, including compliance with the Housing Quality Standards. Timing of any Increases to Rent.

Housing Assistance Payment increases, if approved by ECC/HANH, shall be effective as of the first day of the first month commencing on or after the Participant's reexamination month.

### **ECC/HANH- and HUD-Initiated Rent Reasonableness Determinations**

HUD requires ECC/HANH to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct ECC/HANH to make a determination at any other time. ECC/HANH may decide that a new determination of rent reasonableness is needed at any time.

#### ECC/HANH Policy

In addition to the instances described above, ECC/HANH will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) ECC/HANH determines that the initial rent reasonableness determination was in error or (2) ECC/HANH determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

### **LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]**

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, ECC/HANH must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by ECC/HANH for the unit size involved.

### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

#### **Factors to Consider**

HUD requires ECC/HANH to take into consideration the factors listed below when determining rent comparability. ECC/HANH may use these factors to make upward or downward

adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

### **Units that Must Not Be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

**Note:** Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

### **Rents Charged for Other Units on the Premises**

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the ECC/HANH 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 ECC/HANH information regarding rents charged for other units on the premises.

## **8-III.D. ECC/HANH RENT REASONABLENESS METHODOLOGY**

### **How Market Data Is Collected**

#### ECC/HANH Policy

Information is gathered on rental units in ECC/HANH market area, and each unit is rated, using ECC/HANH's rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

ECC/HANH maintains an automated database, which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 24 months old.

## **How Rents Are Determined**

### ECC/HANH Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. ECC/HANH will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, ECC/HANH may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference—not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows:  $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \$488$ .

ECC/HANH will notify the owner of the rent ECC/HANH can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. ECC/HANH 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 ECC/HANH'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 family to store, prepare, and serve food in a sanitary manner.

### **Space and Security**

The dwelling unit must provide adequate space and security for the family. 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 families 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 families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the ECC/HANH
- 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 family 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 the ECC/HANH). 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 Heath/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

## EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family 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 family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family 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 family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family 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 family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family 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.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present, they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

- *Neighborhood conditions.* Families 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.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

ECC/HANH is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly.

##### ECC/HANH Policy

ECC/HANH has added the terms Work-Able and Non-Work-Able families for purposes of biennial and triennial reexaminations. Non-Work-Able families are families where all adult family members are elderly (age 62 or more) and/or disabled. MTW families that do not meet the definition of a Non-Work-Able family will be considered Work-Able families.

Interim reexaminations are also needed in certain situations. This chapter discusses both bi/triennial and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and ECC/HANH policies concerning reexaminations are presented in three parts:

Part I: Bi/Triennial Reexaminations. This part discusses the process for conducting bi/triennial reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between bi/triennial reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of bi/triennial and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both bi/triennial and interim reexaminations.

## PART I: BI/TRIENNIAL REEXAMINATIONS [24 CFR 982.516]

### 11-I.A. OVERVIEW

ECC/HANH must conduct a reexamination of family income and composition at least bi/triennial. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for bi/triennial reexaminations, the information to be collected and verified, and bi/triennial reexamination effective dates.

### 11-I.B. SCHEDULING BI/TRIENNIAL REEXAMINATIONS

ECC/HANH must establish a policy to ensure that the bi/triennial reexamination for each family is completed *within* the required 24 or 36-month period and may require reexaminations more frequently [HCV GB p. 12-1].

#### ECC/HANH Policy

ECC/HANH will conduct biennial reexaminations for Work-Able families. ECC/HANH will conduct triennial reexaminations for Non-Work-Able families.

ECC/HANH will begin the bi/triennial reexamination process 120 days in advance of its scheduled effective date. Generally, ECC/HANH will schedule bi/triennial reexamination effective dates to coincide with the family's anniversary date.

ECC/HANH defines the *anniversary date* as 24 or 36 months from the effective date of the family's last bi/triennial reexamination or from the effective date of the family's initial examination (admission).

For families approved to move to a new unit within ECC/HANH's jurisdiction, ECC/HANH will not perform a new (bi/tri) annual unless due within 120 days of the effective date of the move.

ECC/HANH may schedule a bi/triennial reexamination for completion prior to the anniversary date or scheduled bi/triennial reexamination for administrative purposes.

If the family moves to a new unit, ECC/HANH will perform a new annual reexamination.

ECC/HANH also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes

### Notification of and Participation in the Bi/Triennial Reexamination Process

ECC/HANH is required to obtain the information ECC/HANH. However, ECC/HANH should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

#### ECC/HANH Policy

##### *Biennial Reexaminations*

Families undergoing a biennial reexamination will be required to participate in a face-to-face reexamination interview, or by online portal which must be attended by all adult household members. If the head of household, spouse, or cohead are unable to attend, the appointment will be rescheduled. If participation in an in-person interview poses a

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hardship because of a family member's disability, the family should contact ECC/HANH to request a reasonable accommodation (see Chapter 2).

Notification of bi/triennial reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact ECC/HANH in advance of the interview to schedule a new appointment. This will count as one missed appointment. If a family does not attend the scheduled interview, ECC/HANH will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without ECC/HANH approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and ECC/HANH must execute a certification attesting to the role and the assistance provided by any such third party.

#### *Triennial Reexaminations*

For families undergoing a triennial reexamination, the reexaminations will be conducted [in person, online portal or](#) by mail. Notification of the reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to ECC/HANH, and the deadline for providing it. Documents will be accepted by mail, email, or in-person.

If the family fails to return the documentation in a timely manner, a second notification will be sent. If the family fails to respond to the second notification, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

If any notice of reexamination is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

An interview will be scheduled if the family requests assistance in providing information or documentation requested by ECC/HANH. ECC/HANH may also, at its discretion, schedule an interview with the family.

- If the family is unable to attend a scheduled interview, the family should contact ECC/HANH in advance of the interview to schedule a new appointment. This will count as one missed appointment. If a family does not attend the scheduled interview, ECC/HANH will send a second notification with a new interview appointment time.
- Families that fail to attend two scheduled interviews without ECC/HANH approval will be sent a notice of termination in accordance with policies contained in Chapter 12.

- An advocate, interpreter, or other assistant may assist the family in the interview process. The family and ECC/HANH must execute a certification attesting to the role and assistance of any such third party.

## **11-I.C. CONDUCTING BI/TRIENNIAL REEXAMINATIONS**

As part of the bi/triennial reexamination process, families are required to provide updated information to ECC/HANH regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

### ECC/HANH Policy

#### *Reexaminations Conducted through Face-to-Face Interviews*

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an ECC/HANH-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. ECC/HANH will grant one 10 business day extension upon request. Exceptions may be made for granting an additional extension on a case-by-case basis.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

#### *Reexaminations Conducted by Mail [or Portal](#)*

Families will be asked to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include an ECC/HANH-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

ECC/HANH will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 10 business days of the date ECC/HANH notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. ECC/HANH will grant one 10 business day extension upon request. Exceptions may be made for granting an additional extension on a case-by-case basis.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

Additionally, HUD recommends that at bi/triennial reexaminations ECC/HANH asks whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

#### ECC/HANH Policy

At the bi/triennial reexamination, ECC/HANH will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. ECC/HANH will use a database available to the public to verify the information provided by the tenant.

If ECC/HANH proposes to terminate assistance based on lifetime sex offender registration information, ECC/HANH must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or ECC/HANH has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on a bi/triennial basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (see Chapter 8), ECC/HANH must issue the family a new voucher, and the family and ECC/HANH must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, ECC/HANH must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

#### **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 HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on a bi/triennial basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents in accordance with ECC/HANH policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### ECC/HANH Policy

During the bi/triennial reexamination process, ECC/HANH 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), ECC/HANH will process a reexamination in accordance with the policies in this chapter.

### **11-I.E. EFFECTIVE DATES**

ECC/HANH must establish policies concerning the effective date of changes that result from a bi/triennial reexamination [24 CFR 982.516].

#### ECC/HANH Policy

In general, an *increase* in the family share of the rent that results from a bi/triennial reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If ECC/HANH chooses to schedule a bi/triennial reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by ECC/HANH but will always allow for the 30-day notice period.

If the family causes a delay in processing the bi/triennial reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the bi/triennial reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from a bi/triennial reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If ECC/HANH chooses to schedule a bi/triennial reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by ECC/HANH.

If the family causes a delay in processing the bi/triennial reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by ECC/HANH by the date specified, and this delay prevents ECC/HANH from completing the reexamination as scheduled.

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]**

### **11-II.A. OVERVIEW**

Family circumstances may change between bi/triennial reexaminations. HUD and ECC/HANH policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances ECC/HANH must process interim reexaminations to reflect those changes. HUD regulations also permit ECC/HANH to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes ECC/HANH must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and ECC/HANH policies describing what changes families are required to report, what changes families may choose to report, and how ECC/HANH will process both ECC/HANH and family-initiated interim reexaminations.

### **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

The family is required to report all changes in family composition. ECC/HANH must adopt policies prescribing when and under what conditions the family must report changes in income and housing composition. However, due to family obligations under the program, ECC/HANH has limited discretion in this area.

#### ECC/HANH Policy

All families must notify ECC/HANH if the following changes in family and household composition that occur between annual or bi/triennial reexaminations within 10 business days.

- Change in family composition that affects the voucher size or bedroom size.
- The addition of a family member 18 years of age or older.
- Increase in family income of at least \$200.00 per month that is expected to last 30 days or more
- Addition of a live-in aid

Decrease in exceptional expenses. If ECC/HANH grants an exceptional deduction for any family and there is a subsequent change then the family must report that change

#### **New Family Members Not Requiring ECC/HANH Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require ECC/HANH approval. However, the family is required to promptly notify ECC/HANH of the addition [24 CFR 982.551(h)(2)].

#### ECC/HANH Policy

The family must inform ECC/HANH of the birth, adoption, or court-awarded custody of a child within 10 business days.

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request ECC/HANH approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, ECC/HANH must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), ECC/HANH must issue the family a new voucher, and the family and ECC/HANH must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, ECC/HANH must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

#### ECC/HANH Policy

Families must request ECC/HANH approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by ECC/HANH prior to the individual moving into the unit. A written letter of approval from the current landlord to add this new family member to the lease must accompany the request.

ECC/HANH will deny requests to add persons to a household (other than a child by birth, adoption, or court-awarded custody) if it will require ECC/HANH to increase the family's voucher size by more than one bedroom. However, ECC/HANH may approve the addition if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by ECC/HANH. Exceptions will be made on a case-by-case basis.

Foster children may be added to the household provided that the foster parent(s) has been granted a license through the appropriate Child and Family Services agency and the addition does not violate HQS space standards for the current leased unit.

New family or household members must meet ECC/HANH's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

If ECC/HANH determines an individual may be added to the family/household, ECC/HANH will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If ECC/HANH determines that an individual does not meet ECC/HANH's eligibility criteria or documentation requirements, ECC/HANH will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

ECC/HANH will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

#### **Departure of a Family or Household Member**

Families must promptly notify ECC/HANH if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], ECC/HANH also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

##### ECC/HANH Policy

If a household member ceases to reside in the unit, the family must inform ECC/HANH within 10 business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform ECC/HANH within 10 business days.

#### **11-ILC. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because ECC/HANH has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, ECC/HANH may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

##### **ECC/HANH-Initiated Interim Reexaminations**

ECC/HANH initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by ECC/HANH. They are not scheduled because of changes reported by the family.

##### ECC/HANH Policy

ECC/HANH will conduct interim reexaminations in each of the following instances:

If at the time of the bi/triennial reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), ECC/HANH 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 bi/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, ECC/HANH will conduct an interim reexamination.

ECC/HANH 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.

ECC/HANH will *not* conduct an interim when ECC/HANH averaged income across 12 months when annualizing income for a seasonal employee (see section 6-I.C).

**Example 1:** Mr. Quinn works in construction 8 months of the year, earning \$1,500 a month. He is paid cash. The remaining months he receives no income.

At Mr. Quinn's biennial reexamination, HANH annualized his income as follows:  $\$1,500 \times 8 = \$12,000$ .

No interim will be conducted if Mr. Quinn was working at the time of his biennial reexamination and then reports that income stopped due to this regular layoff. Nor will an interim be conducted when Mr. Quinn resumes work at this regular job.

**Example 2:** Ms. Marie works as a school bus driver 10 months out of the year earning \$15,000 from this employment. The remaining 2 months, she draws \$1,500 a month in unemployment benefits. At her triennial reexamination, ECC/HANH calculated Ms. Marie's annual income to be \$18,000 ( $\$15,000 + \$3,000 (\$1,500 \times 2)$ ).

No interim will be conducted when Ms. Marie starts or stops working.

Income from the previous year may be analyzed to determine the amount to anticipate when third party verification is not available or reliable.

#### **Family-Initiated Interim Reexaminations**

ECC/HANH must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

#### ***Required Reporting***

HUD regulations give ECC/HANH the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### ECC/HANH Policy

Interim rents remain in place until the next scheduled reexamination or until the household experiences an increase in income equal to or greater than \$200.00 per month, whichever comes first.

Households receiving an interim rent reduction must report any subsequent income increase to ECC/HANH within ten (10) days of occurrence. Failure to report the change within ten (10) days results in retroactive rent changes, and depending on the severity of the circumstances, lease termination. This increase in rent does not count as an interim reexamination.

Permanent loss of income (i.e., death of an income earner) results in a permanent, rather than interim, rent reduction. This decrease in rent does not count as an interim reexamination.

Families are not required to report any other income changes.

Example 1: Ms. Austin was receiving child support. When her son went to live with his father, child support payments ended. Now her son has decided to live with her again. Her \$150 month child support payment resumed. HANH's policy requires Ms. Austin to report this income and an interim will be conducted.

Example 2: Bob Leonard, 18, started working for the first time. He is earning \$175 a month in his part-time job at a fast-food restaurant. As this is new employment, Mr. Leonard is required to report the change and an interim will be conducted.

Example 3: Maxine Mills just received a \$250 a month raise from her employer. Ms. Mills is not required to report this change. If she does report it, HANH will not conduct an interim.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The ECC/HANH must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

#### ECC/HANH Policy

If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, ECC/HANH will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the monthly tiered rent (TTP), ECC/HANH will conduct an interim reexamination. See Section 11-II.D. for effective dates.

## **11-II.D. PROCESSING THE INTERIM REEXAMINATION**

### **Method of Reporting**

#### ECC/HANH Policy

Families may notify ECC/HANH of changes orally or in writing. The family will be required to submit the changes in writing by completing an interim packet supplied by ECC/HANH.

Generally, the family is not required to attend an interview for an interim reexamination. If ECC/HANH determines an interview is warranted, the family may be required to attend.

Based on the type of change reported, ECC/HANH will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from ECC/HANH. This time

frame may be extended for good cause with ECC/HANH approval. ECC/HANH will accept required documentation by mail, email, by fax, or in person.

### **Effective Dates**

ECC/HANH must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

#### ECC/HANH Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change or provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If ECC/HANH fails to process a change within the required time frames, the increase will be effective the first of the month after the required 30 day notice prior.

If the family 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. If the change cannot be verified until after the date the change would have been effective, the change will be made retroactively. No rent reduction will be processed until all facts are verified even if a retroactive adjustment is the end result.

If ECC/HANH fails to process a change timely, the change will be calculated retroactively to the date it should have been effective, and the family will be credited the amount.

## PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

### 11-III.A. OVERVIEW

After gathering and verifying required information for a bi/triennial or interim reexamination, ECC/HANH must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### 11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in ECC/HANH's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### Payment Standards [24 CFR 982.505 [and FR Notice 5/7/24](#)]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When ECC/HANH's changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If ECC/HANH's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first bi/triennial* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second bi/triennial* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

#### Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in ECC/HANH's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first bi/triennial* reexamination following the change in family unit size.

#### Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in ECC/HANH'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, ECC/HANH must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, ECC/HANH must use the ECC/HANH current utility allowance schedule [24 CFR 982.517(d)(2)].

#### ECC/HANH Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first bi/triennial reexamination after the allowance is adopted.

### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

ECC/HANH must notify the owner and family 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 family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding ECC/HANH's determination of their bi/triennial 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).

#### ECC/HANH Policy

The notice to the family will include the annual income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

### **11-III.D. DISCREPANCIES**

During a bi/triennial or interim reexamination, ECC/HANH may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, ECC/HANH may discover errors made by ECC/HANH. 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 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes ECC/HANH's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to ECC/HANH. This part describes policies for recovery of monies that ECC/HANH has overpaid on behalf of families, or to owners, and describes the circumstances under which ECC/HANH will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect ECC/HANH

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies ECC/HANH will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes ECC/HANH's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes ECC/HANH'S policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

ECC/HANH will maintain administrative fee reserves, or unrestricted net assets (UNA) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for the ECC/HANH fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNA account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, ECC/HANH may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. ECC/HANH are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If ECC/HANH has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA Account and may direct ECC/HANH to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the ECC/HANH Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNA account without specific approval.

### ECC/HANH Policy

Expenditures from the UNA account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$50,000 per occurrence nor more than \$50,000 in the aggregate for each fiscal year without the prior approval of the ECC/HANH’s Board of Commissioners.

## PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

### 16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow ECC/HANH to adapt the program to local conditions. This part discusses how ECC/HANH establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### ECC/HANH Policy

Copies of the payment standard and utility allowance schedules are available for review in ECC/HANH's offices during normal business hours as well as posted on ECC/HANH's website.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

ECC/HANH will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the ECC/HANH passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### 16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from ECC/HANH each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

ECC/HANH must establish a payment standard schedule that establishes payment standard amounts for each FMR area within ECC/HANH's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, ECC/HANH may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, ECC/HANH is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

## Updating Payment Standards

When HUD updates its FMRs, ECC/HANH must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require ECC/HANH to make further adjustments if it determines that rent burdens for assisted families in ECC/HANH's jurisdiction are unacceptably high 24 CFR 982.503(g)].

### ECC/HANH Policy

ECC/HANH will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" ECC/HANH will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** ECC/HANH will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. ECC/HANH will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, ECC/HANH will consider increasing the payment standard. In evaluating rent burdens, ECC/HANH will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** ECC/HANH will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** ECC/HANH may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** ECC/HANH will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** ECC/HANH will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1<sup>st</sup> of every year. ECC/HANH may change its payment standard more often than annually if warranted based on the above factors.

### **Exception Payment Standards [982.503(c) Notice PIH 2018-01, FR Notice 9/27/21]**

ECC/HANH must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

### **Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]**

ECC/HANH administers vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

#### ECC/HANH Policy

ECC/HANH will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas.

### **Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to ECC/HANH's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect ECC/HANH's payment standard schedule.

When needed as a reasonable accommodation, ECC/HANH may make an exception to the payment standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size [HCV GB 7-9]. ECC/HANH may request HUD approval for an exception to the payment standard for a particular family if the required amount falls between 110 and 120 percent of the FMR.

#### ECC/HANH Policy

Under its MTW Agreement with HUD, ECC/HANH may set its payment standards up to 150% of the FMR for purposes of reasonable accommodation or hard-to-house.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, ECC/HANH must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of monthly income; and
- The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, ECC/HANH may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by

HUD, a success rate payment standard allows ECC/HANH to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, ECC/HANH must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The ECC/HANH had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- ECC/HANH had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, ECC/HANH may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of ECC/HANH's jurisdiction within the FMR area.

#### **Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

ECC/HANH must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

#### **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

AECC/HANH-established utility allowance schedule is used in determining family share and ECC/HANH subsidy. ECC/HANH 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, ECC/HANH 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, ECC/HANH 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 ECC/HANH about establishing utility allowance schedules.

## **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

### **ECC/HANH Policy**

ECC/HANH has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before ECC/HANH will apply this allowance to a family's rent and subsidy calculations.

## **Reasonable Accommodation**

HCV program regulations require ECC/HANH to approve a utility allowance amount higher than shown on ECC/HANH'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, ECC/HANH will approve an allowance for air-conditioning, even if ECC/HANH 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**

ECC/HANH 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.

ECC/HANH must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of ECC/HANH that may adversely affect them. ECC/HANH decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of ECC/HANH decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” ECC/HANH is required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

### **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554] and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

#### **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the ECC/HANH waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by ECC/HANH
- General policy issues or class grievances
- A determination of the family unit size under ECC/HANH subsidy standards
- ECC/HANH determination not to approve an extension or suspension of a voucher term
- ECC/HANH determination not to grant approval of the tenancy
- ECC/HANH determination that the unit is not in compliance with the HQS
- ECC/HANH determination that the unit is not in accordance with the HQS due to family size or composition.

## ECC/HANH Policy

ECC/HANH will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the ECC/HANH waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

### **Notice to the Applicant [24 CFR 982.554(a)]**

ECC/HANH must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the ECC/HANH 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**

#### ECC/HANH Policy

A request for an informal review must be made in writing and delivered to ECC/HANH 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 ECC/HANH's denial of assistance.

ECC/HANH must schedule and send written notice of the informal review within 10 business days of the family's request.

If the informal review will be conducted remotely, at the time ECC/HANH notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the ECC/HANH will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform ECC/HANH and ECC/HANH will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

### **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 ECC/HANH.

### **Remote Informal Reviews [Notice PIH 2020-32]**

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows ECC/HANH to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If ECC/HANH chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

### ECC/HANH Policy

ECC/HANH has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, ECC/HANH will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. ECC/HANH will consider other reasonable requests for a remote informal review on a case-by-case basis.

### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. ECC/HANH may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

ECC/HANH is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, ECC/HANH may not hold against the individual their inability to participate in the remote informal review, and ECC/HANH should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

## Conducting Remote Informal Reviews

ECC/HANH must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to ECC/HANH. ECC/HANH should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, ECC/HANH must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

ECC/HANH must ensure that the applicant has the right to hear and be heard. All ECC/HANH policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

### ECC/HANH Policy

ECC/HANH will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote review, ECC/HANH will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the informal review and request the family notify ECC/HANH of any known barriers. ECC/HANH will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person informal review.

If the informal review is to be conducted remotely, ECC/HANH will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. ECC/HANH will scan and email copies of these documents to ECC/HANH representative the same day.

Documents will be shared electronically whenever possible.

ECC/HANH will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

ECC/HANH will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

### **Informal Review Decision [24 CFR 982.554(b)]**

ECC/HANH must notify the applicant of the ECC/HANH'S final decision, including a brief statement of the reasons for the final decision.

#### ECC/HANH Policy

In rendering a decision, ECC/HANH will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. ECC/HANH 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, ECC/HANH will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, ECC/HANH will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

ECC/HANH 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 family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

ECC/HANH must offer an informal hearing for certain ECC/HANH determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the ECC/HANH's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether ECC/HANH'S decisions related to the family's circumstances are in accordance with the law, HUD regulations and ECC/HANH policies.

ECC/HANH is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

## **Decisions Subject to Informal Hearing**

Circumstances for which ECC/HANH must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the ECC/HANH utility allowance schedule
- A determination of the family unit size under the ECC/HANH subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under ECC/HANH policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by ECC/HANH
- General policy issues or class grievances
- Establishment of the ECC/HANH schedule of utility allowances for families in the program
- ECC/HANH determination not to approve an extension or suspension of a voucher term
- ECC/HANH determination not to approve a unit or tenancy
- ECC/HANH determination that a unit selected by the applicant is not in compliance with the HQS
- ECC/HANH determination that the unit is not in accordance with HQS because of family size
- A determination by ECC/HANH to exercise or not to exercise any right or remedy against an owner under a HAP contract

### ECC/HANH Policy

ECC/HANH will only offer participants the opportunity for an informal hearing when required to by the regulations.

## **Remote Informal Hearings [Notice PIH 2020-32]**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows ECC/HANH to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If ECC/HANH chooses to conduct

remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

#### ECC/HANH Policy

ECC/HANH has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, ECC/HANH will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk.

ECC/HANH will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

#### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. ECC/HANH may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

ECC/HANH are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, ECC/HANH may not hold against the individual their inability to participate in the remote informal hearing, and ECC/HANH should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

## **Conducting Informal Hearings Remotely**

ECC/HANH must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to ECC/HANH. ECC/HANH should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, ECC/HANH must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

ECC/HANH essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all ECC/HANH policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

### ECC/HANH Policy

ECC/HANH will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, ECC/HANH will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify ECC/HANH of any known barriers. ECC/HANH will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

ECC/HANH will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

ECC/HANH will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

## **Informal Hearing Procedures**

### ***Notice to the Family [24 CFR 982.555(c)]***

When ECC/HANH makes a decision that is subject to informal hearing procedures, ECC/HANH must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, ECC/HANH must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to ECC/HANH's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

#### ECC/HANH Policy

In cases where ECC/HANH makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of ECC/HANH.

- A brief statement of the reasons for the decision, including the regulatory reference.

- The date the proposed action will take place.

- A statement of the family's right to an explanation of the basis for ECC/HANH's decision for decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size,

- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

- A deadline for the family to request the informal hearing.

- To whom the hearing request should be addressed.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an informal hearing is required, ECC/HANH must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### ECC/HANH Policy

A request for an informal hearing must be made in writing and delivered to ECC/HANH 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 ECC/HANH's decision or notice to terminate assistance.

ECC/HANH must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request. The informal hearing scheduling notice

will provide the family with an overview of the hearing process, including explaining the family's right to discovery, and explaining ECC/HANH's right to discovery and that ECC/HANH is exerting its right to discovery.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, ECC/HANH may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact ECC/HANH within 24 hours of the scheduled hearing date, excluding weekends and holidays. ECC/HANH will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

The family will be considered as a "no-show" up to 15 minutes after the scheduled time of the informal hearing.

#### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and ECC/HANH are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any ECC/HANH documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If ECC/HANH does not make the document available for examination on request of the family, ECC/HANH may not rely on the document at the hearing.

The ECC/HANH hearing procedures may provide that ECC/HANH must be given the opportunity to examine at the ECC/HANH offices before the hearing, any family documents that are directly relevant to the hearing. ECC/HANH must be allowed to copy any such document at ECC/HANH's expense. If the family does not make the document available for examination on request of ECC/HANH, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### **ECC/HANH Policy**

ECC/HANH will copy requested documents relate to the hearing in ECC/HANH's offices at no charge to the family. The family must request discovery of ECC/HANH documents no later than 12:00 p.m., three business days prior to the scheduled hearing date

ECC/HANH must be given an opportunity to examine at ECC/HANH offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, ECC/HANH will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participants are to make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date. However, ECC/HANH will allow documents/evidence to be presented at informal hearing even if the family did not meet the above deadline to provide to ECC/HANH.

### ***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

### ***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by ECC/HANH, 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***

#### **ECC/HANH Policy**

Hearings may be attended by a hearing officer and the following applicable persons:

An ECC/HANH representative(s) and any witnesses for ECC/HANH

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by ECC/HANH as a reasonable accommodation for a person with a disability

Language interpreter, if requested

### ***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with ECC/HANH's hearing procedures [24 CFR 982.555(4)(ii)].

#### **ECC/HANH Policy**

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

### ***Evidence [24 CFR 982.555(e)(5)]***

ECC/HANH and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### **ECC/HANH Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to ECC/HANH. 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 outside of the hearing that is offered to prove the truth of the matter asserted. Efforts should be taken to ensure that hearsay evidence is not the only evidence presented at a hearing. However, in the event hearsay evidence is the only evidence presented, the hearing officer may have no choice but to formulate a decision based upon the credibility of the witnesses presenting such hearsay evidence.

If ECC/HANH fails to comply with the discovery requirements (providing the tenant with the opportunity to examine ECC/HANH documents prior to the hearing), 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.

### ***Procedures for Rehearing or Further Hearing***

#### **ECC/HANH Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of ECC/HANH will take effect and another hearing will not be granted.

### ***Hearing Officer's Decision [24 CFR 982.555(e)(6)]***

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

#### **ECC/HANH Policy**

In rendering a decision, the hearing officer will consider the following matters:

**ECC/HANH Notice to the Family:** The hearing officer will determine if the reasons for ECC/HANH's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if ECC/HANH and the family were given the opportunity to examine any relevant documents in accordance with ECC/HANH policy.

**ECC/HANH Evidence to Support the ECC/HANH 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 ECC/HANH'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 ECC/HANH policies. If the grounds for termination are not specified in the regulations or in compliance with ECC/HANH policies, then the decision of ECC/HANH will be overturned.

The hearing officer will issue a written decision to the family and ECC/HANH no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

Name of the participant;  
Date, time and place of the hearing;  
Name of the hearing officer;  
Name of the ECC/HANH representative; and  
Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold ECC/HANH's decision.

**Order:** The hearing report will include a statement of whether ECC/HANH's decision is upheld or overturned. If it is overturned, the hearing officer will instruct ECC/HANH to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct ECC/HANH to restore the participant's program status.

***Issuance of Decision [24 CFR 982.555(e)(6)]***

A copy of the hearing must be furnished promptly to the family.

ECC/HANH Policy

The hearing officer will mail a "Notice of Hearing Decision" to ECC/HANH and to the participant on the same day. This notice will be sent by first-class mail. The participant

will be mailed the original “Notice of Hearing Decision” and a copy of the proof of mailing. A copy of the “Notice of Hearing Decision” will be maintained in the ECC/HANH’s file.

#### ***ECC/HANH Notice of Final Decision [24 CFR 982.555(f)]***

ECC/HANH is not bound by the decision of the hearing officer for matters in which ECC/HANH 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 ECC/HANH determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, ECC/HANH must promptly notify the family of the determination and the reason for the determination.

#### **ECC/HANH Policy**

Only the Executive Director/President or their designee may make the determination that ECC/HANH is not bound by the hearing officer’s decision.

Should the decision be made that ECC/HANH is not bound by the hearing officer’s decision, ECC/HANH will mail a “Notice of Final Decision” including the hearing officer’s report to the participant and their representative. This notice will be sent by first-class mail, postage pre-paid, with an affidavit of mailing enclosed. The participant will be mailed the original “Notice of Final Decision” and a copy of the proof of mailing. A copy of the “Notice of Final Decision” along with the original proof of mailing will be maintained in ECC/HANH’s file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) (formerly INS) appeal process. Assistance to a family may not be terminated or denied while the ECC/HANH hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the ECC/HANH informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.

- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with ECC/HANH 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 ECC/HANH receives notification that the USCIS secondary verification failed to confirm eligible immigration status, ECC/HANH must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide ECC/HANH with a copy of the written request for appeal and the proof of mailing.

#### ECC/HANH Policy

ECC/HANH will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide ECC/HANH with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to ECC/HANH, of its decision. When the USCIS notifies ECC/HANH of the decision, ECC/HANH must notify the family of its right to request an informal hearing.

#### ECC/HANH Policy

ECC/HANH will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that ECC/HANH provide a hearing. The request for a hearing must be made either within 30 days of receipt of the ECC/HANH notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

### ***Informal Hearing Officer***

ECC/HANH must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of ECC/HANH pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### **ECC/HANH Policy**

ECC/HANH will copy requested documents relate to the hearing in ECC/HANH's offices at no charge to the family. The family must request discovery of ECC/HANH documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

ECC/HANH must be given an opportunity to examine at ECC/HANH offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, ECC/HANH will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participants are to make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date. However, ECC/HANH will allow documents/evidence to be presented at informal hearing even if the family did not meet the above deadline to provide to ECC/HANH.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by ECC/HANH, and to confront and cross-examine all witnesses on whose testimony or information ECC/HANH relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter free of charge.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. ECC/HANH may, but is not required to provide a transcript of the hearing.

#### **ECC/HANH Policy**

ECC/HANH will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

ECC/HANH must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision 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 family may request that ECC/HANH provide a hearing. The request for a hearing must be made either within 30 days of receipt of the EC/HANH notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

### **Retention of Documents [24 CFR 5.514(h)]**

ECC/HANH must retain for a minimum of 5 years the following documents that may have been submitted to ECC/HANH by the family, or provided to ECC/HANH as part of the USCIS appeal or the ECC/HANH informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO ECC/HANH**

### **16-IV.A. OVERVIEW**

ECC/HANH is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to ECC/HANH [24 CFR 982.54]. This part describes ECC/HANH'S policies for recovery of monies owed to ECC/HANH by families or owners.

#### ECC/HANH Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, ECC/HANH holds the owner or participant liable to return any overpayments to ECC/HANH.

ECC/HANH 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 ECC/HANH, ECC/HANH will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies

- Small claims court

- Civil lawsuit

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to ECC/HANH**

#### ECC/HANH Policy

Any amount due to ECC/HANH by an owner must be repaid by the owner within 14 days of ECC/HANH determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, ECC/HANH will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments ECC/HANH may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by ECC/HANH.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, ECC/HANH will ban the owner from future participation in the program and pursue other modes of collection.

When an owner refuses to repay monies owed to ECC/HANH, ECC/HANH may utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies

- Small claims court

- Civil lawsuit

## State income tax set-off program

### Family Debts to ECC/HANH

Families are required to reimburse ECC/HANH if they were charged less rent than required because the family either underreported or failed to report income. ECC/HANH is required to determine retroactive rent amounts as far back as ECC/HANH has documentation of family unreported income [Notice PIH 2018-18].

#### ECC/HANH Policy

Any amount owed to ECC/HANH by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, ECC/HANH will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, ECC/HANH will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

### Refusal to Enter into an Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, ECC/HANH must terminate assistance [Notice PIH 2018-18].

#### ECC/HANH Policy

When a family refuses to repay monies owed to the ECC/HANH, in addition to termination of program assistance, ECC HANH may utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

### Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to ECC/HANH in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### General Repayment Agreement Guidelines for Families

#### ***Down Payment Requirement***

#### ECC/HANH Policy

Before executing a repayment agreement with a family, ECC/HANH will generally require a down payment based on the amount owed as reflected below:

<u>Amount Owed</u>	<u>% of Total Amount Owed</u>
20%	\$0 - \$500
15%	\$501 - \$1,000

10%	\$1,001 - \$2,500
5%	\$2,501 - \$5,000

If the family can provide evidence satisfactory to ECC/HANH that a down payment of 10 percent would impose an undue hardship, ECC/HANH may, in its sole discretion, require a lesser percentage or waive the requirement.

### ***Payment Thresholds***

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that ECC/HANH have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

#### **ECC/HANH Policy**

ECC/HANH has established the following thresholds for repayment of debts:

Amounts from \$2,500 to \$5,000 must be repaid within 18 months

Amounts from \$1,000 to \$2,499 must be repaid within 14 months

Amounts from \$500 to \$999 must be repaid within 10 months

Amounts under \$500 must be repaid within 6 months

Amounts above \$5,000 will be referred to ECC/HANH’s legal department.

If a family can provide evidence satisfactory to ECC/HANH that the threshold applicable to the family’s debt would impose an undue hardship, ECC/HANH may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, ECC/HANH will consider all relevant information, including the following:

The amount owed by the family to ECC/HANH

The reason for the debt

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and ECC/HANH [Notice PIH 2018-18].

#### **ECC/HANH Policy**

Any repayment agreement between ECC/HANH and a family must be signed and dated by ECC/HANH and by the head of household and spouse/cohead (if applicable).

### ***Due Dates***

#### **ECC/HANH Policy**

All payments are due by the close of business on the 1st day of the month. If the 1<sup>st</sup> does not fall on a business day, the due date is the close of business on the first business day after the 1st.

### ***Late or Missed Payments***

#### **ECC/HANH Policy**

If a payment is not received by the end of the 10<sup>th</sup> business day of the month, ECC/HANH will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and ECC/HANH will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and ECC/HANH will terminate assistance in accordance with the policies in Chapter 12.

### ***No Offer of Repayment Agreement***

#### **ECC/HANH Policy**

ECC/HANH will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family.

### **Repayment Agreements Involving Improper Payments**

Notice PIH 2018-18 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which ECC/HANH may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to ECC/HANH the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure ECC/HANH performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for ECC/HANH as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect ECC/HANH in several ways.

- High-performing - can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- Standard - if there are deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- Troubled - subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

#### **ECC/HANH Policy**

**NOTE: As a Moving-to-Work agency, ECC/HANH is not required to certify to HUD under SEMAP, relevant SEMAP indicators have been incorporated in ECC/HANH's Quality Control Plan and the SEMAP Certification process is outlined below.**

### **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

## HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

## 16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
<b>Indicator 1: Selection from the waiting list</b> <b>Maximum Score: 15</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</li><li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.</li></ul>
<b>Indicator 2: Rent reasonableness</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units</li><li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.</li></ul>
<b>Indicator 3: Determination of adjusted income</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li><li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li></ul>

**Indicator 4: Utility allowance schedule****Maximum Score: 5**

- This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.
- Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

**Indicator 5: HQS quality control inspections****Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

**Indicator 6: HQS enforcement****Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

**Indicator 7: Expanding housing opportunities****Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

**Indicator 8: FMR limit and payment standards****Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

**Indicator 9: Annual reexaminations****Maximum Points: 10**

<ul style="list-style-type: none"> <li>• This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.</li> <li>• Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.</li> </ul>
<p><b>Indicator 10: Correct tenant rent calculations</b>  <b>Maximum Points: 5</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.</li> <li>• Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.</li> </ul>
<p><b>Indicator 11: Pre-contract HQS inspections</b>  <b>Maximum Points: 5</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.</li> <li>• Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.</li> </ul>
<p><b>Indicator 12: Annual HQS inspections</b>  <b>Maximum Points: 10</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA inspects each unit under contract at least annually.</li> <li>• Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.</li> </ul>
<p><b>Indicator 13: Lease-up</b>  <b>Maximum Points: 20 points</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.</li> <li>• Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.</li> </ul>
<p><b>Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances</b>  <b>Maximum Points: 10</b></p> <ul style="list-style-type: none"> <li>• Only applies to PHAs with mandatory FSS programs.</li> <li>• This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.</li> <li>• Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.</li> </ul>

**Success Rate of Voucher Holders****Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

ECC/HANH 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, ECC/HANH must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **16-VI.B. RECORD RETENTION [24 CFR 982.158]**

During the term of each assisted lease, and for at least three years thereafter, ECC/HANH must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, ECC/HANH must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting ECC/HANH budget and financial statements for the program;
- Records to document the basis for ECC/HANH determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

ECC/HANH must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

ECC/HANH must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires ECC/HANH to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

### ECC/HANH Policy

ECC/HANH will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

ECC/HANH must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the ECC/HANH's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [see 24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

## **16-VI.C. RECORDS MANAGEMENT**

ECC/HANH must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### ECC/HANH Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized ECC/HANH staff.

ECC/HANH staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886] [PIH-2015-06]**

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 ECC/HANH may release the information collected.

### ECC/HANH Policy

ECC/HANH may use 3<sup>rd</sup> party technology platforms, such as Bob A.I., to gather information for the processing of new admission, annual or interim recertifications. ECC/HANH will comply with all data sharing practices, security protocols and consent and data usage. ECC/HANH will also comply with HUD, and federal privacy regulations.

ECC/HANH will maintain Memorandum of Understandings (MOU) with any and all 3<sup>rd</sup> party technology platforms certifying compliance with PIH Notice 2015-06, which outlines the requirements for protecting Personally Identifiable Information (PII) and Sensitive Personally Identifiable Information.

## **Upfront Income Verification (UIV) Records**

PHAs (ECC/HANH) that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### ECC/HANH Policy

Prior to utilizing HUD's EIV system, ECC/HANH will adopt and implement EIV security procedures required by HUD.

## **Criminal Records**

ECC/HANH may only disclose the criminal conviction records which ECC/HANH receives from a law enforcement agency to officers or employees of ECC/HANH, or to authorized representatives of ECC/HANH who have a job-related need to have access to the information [24 CFR 5.903(e)].

ECC/HANH must establish and implement a system of records management that ensures that any criminal record received by ECC/HANH from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the ECC/HANH action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

ECC/HANH must establish and implement a system of records management that ensures that any sex offender registration information received by ECC/HANH from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the ECC/HANH action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by ECC/HANH other than under 24 CFR 5.905.

## **Medical/Disability Records**

ECC/HANH is not permitted to inquire about the nature or extent of a person's disability. ECC/HANH may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If ECC/HANH receives a verification document that provides such information, ECC/HANH should not place this information in the tenant file. ECC/HANH should destroy the document.

## **Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

For requirements and ECC/HANH policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.

## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

ECC/HANH has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that ECC/HANH is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]; PIH 2017-13 (HA); OHHLHC 2017-01; HUD Lead Safe Housing Rule; ECC/HANH Lead Safe Housing Policy and Procedure**

ECC/HANH has certain responsibilities relative to children with environmental intervention blood lead levels that are living in housing choice voucher units.

ECC/HANH must report the name and address of a child of less than 6 years of age, 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. ECC/HANH must also report each known case of a child with an environmental intervention blood lead level to the HUD field office and HUD's Office of Lead Control.

#### ECC/HANH Policy

ECC/HANH will provide the public health department written notice of the name and address of any child of less than 6 years of age, identified as having an environmental intervention blood lead level.

ECC/HANH will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office, HUD's Office of Lead Hazard Control, the CT State Health Dept. and the New Haven Health Dept., within 5 business days of receiving the information.

ECC/HANH will ensure that an environmental investigation of the child's unit and the common areas servicing that unit occurs within **15 calendar days** in accordance with Chapter 16 of the HUD Guidelines. If the unit is in a multi-unit development, an

assessment must be performed in all other covered units with children under the age of 6 and the common areas servicing those units.

ECC/HANH shall notify the HUD Field Office of the results of the environmental investigation within **10 business days** of receiving the results.

ECC/HANH must notify the family of the results of the environmental review within **15 calendar days** after receiving the results.

ECC/HANH will direct that any lead-based hazards identified by the investigation are controlled within **30 calendar days** by a certified lead-based paint abatement firm or certified lead renovation firm.

In a multi-unit development, ECC/HANH shall ensure that all residents are notified of the lead evaluation and hazard control activities.

ECC/HANH will ensure that any lead hazard control (including passing clearance) is complete.

ECC/HANH shall notify the HUD Field Office of the results of the lead hazard control work within **10 business days**.

After completion of the lead control work, ECC/HANH shall monitor Owner compliance through periodic Housing Quality Standards (HQS) inspections, not less than annually and ensure that the unit and common areas are maintained as lead safe for continued occupancy.

Re-evaluations are required every 2 years by a certified lead risk assessor. Any findings must be attended to.

The HCV Department staff is responsible for notifying all owners of their responsibility under this rule and to agree to notify ECC/HANH of EBLL cases

#### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, ECC/HANH 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 ECC/HANH obtains names and addresses of environmental intervention blood lead level children from the public health department(s), ECC/HANH must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, ECC/HANH must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, ECC/HANH must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

### ECC/HANH Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, ECC/HANH is not providing such a report.

## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow ECC/HANH to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. If ECC/HANH denies a family a portability move based on insufficient funding, ECC/HANH is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact ECC/HANH's ability to issue vouchers to families on the waiting list. This part discusses the methodology ECC/HANH will use to determine whether or not ECC/HANH has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### ECC/HANH Policy

The total HAP needs for the calendar year will be established in the ECC/HANH annual MTW plan under Section II: General Housing Authority Operating Information: Housing Choice Voucher Program approved by the ECC/HANH Board of Commissions and submitted and approved by HUD. The plan will state the number of vouchers and the amounts of ECC/HANH budget allocated to HAP payments for the applicable fiscal year and include ECC/HANH projected HAP payments for Section 8, Project Based Voucher units, RAD vouchers, special project vouchers, SRO and VASH vouchers if either the total number of vouchers allocated or costs of the vouchers allocated exceeds the amount projected in the Annual MTW Plan, the authority shall have the right to suspend the issuance of new vouchers and suspend the absorption of vouchers from other PHAs until such time as (i) there is an approved modification or amendment to the HCV allocation table in the annual MTW plan that increases that amount of vouchers available for issuance (ii) there are turn over vouchers available to support the re-issuance of new tenant based vouchers (A turn-over voucher as defined by HUD is a voucher that becomes available when that voucher is returned to the agency, when it is vacated by a resident); and or (iii) there is an increase HAP funding to the agency from the office of HUD.

As ECC/HANH is a MTW agency it has the right to allocate a certain percentage of annual budget authority to fund activities and initiatives consistent with the agency's mission and goals. These activities and initiatives are defined in the ECC/HANH annual MTW plan and updated annually.

## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and ECC/HANH policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and ECC/HANH policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

### **16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 U.S.C 13925]**

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant or lawful occupant living in the household of that the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices

- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

## **16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]**

### **Notification to Public**

ECC/HANH adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

#### ECC/HANH Policy

ECC/HANH will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of ECC/HANH's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

### **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

ECC/HANH is required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

#### ECC/HANH Policy

ECC/HANH will provide all applicants with information about VAWA at the time they request an application for housing assistance. ECC/HANH will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

ECC/HANH will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at bi/triennial reexamination. ECC/HANH will also

include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternate Documentation.

ECC/HANH is not limited to providing VAWA information at the times specified in the above policy. If ECC/HANH decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases ECC/HANH make alternative delivery arrangements that will not put the victim at risk.

#### ECC/HANH Policy

Whenever ECC/HANH has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, ECC/HANH may decide not to send mail regarding VAWA protections to the victim's unit if the ECC/HANH believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, ECC/HANH will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **Notification to Owners and Managers [24 CFR 5.2005(a)(2)]**

ECC/HANH is required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

#### ECC/HANH Policy

ECC/HANH will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

#### **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

ECC/HANH, presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. ECC/HANH may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy ECC/HANH's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

ECC/HANH may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

#### ECC/HANH Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

ECC/HANH may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, ECC/HANH will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by ECC/HANH will be in writing.

Once the victim provides documentation, ECC/HANH will acknowledge receipt of the documentation within 10 business days.

#### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where ECC/HANH receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, ECC/HANH may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). ECC/HANH must honor any court orders issued to protect the victim or to address the distribution of property.

### ECC/HANH Policy

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, ECC/HANH will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(c) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the ECC/HANH will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If ECC/HANH does not receive third-party documentation within the required timeframe (and any extensions) ECC/HANH will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, ECC/HANH will hold separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

ECC/HANH has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

### ECC/HANH Policy

If ECC/HANH accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, ECC/HANH will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, ECC/HANH must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as ECC/HANH may allow, ECC/HANH may deny relief for protection under VAWA.

### **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to ECC/HANH regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that ECC/HANH (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

### ECC/HANH Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, ECC/HANH will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

<b>EXHIBIT 16-1: EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380</b>
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**[Insert Name of Housing Provider]**

**Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the housing choice voucher program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the housing choice voucher program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Removing the Abuser or Perpetrator from the Household**

ECC/HANH may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If ECC/HANH chooses to remove the abuser or perpetrator, ECC/HANH may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, ECC/HANH must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or find alternative housing.

In removing the abuser or perpetrator from the household, ECC/HANH must follow federal, state, and local eviction procedures. In order to divide a lease, ECC/HANH may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

## **Moving to Another Unit**

Upon your request, ECC/HANH may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, ECC/HANH may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

ECC/HANH will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

ECC/HANH's emergency transfer plan provides further information on emergency transfers, and ECC/HANH must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

ECC/HANH can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from ECC/HANH must be in writing, and ECC/HANH must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. ECC/HANH may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to ECC/HANH as documentation. It is your choice which of the following to submit if ECC/HANH asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by ECC/HANH with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that ECC/HANH has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, ECC/HANH does not have to provide you with the protections contained in this notice.

If ECC/HANH receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), ECC/HANH has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is

conflicting evidence, ECC/HANH does not have to provide you with the protections contained in this notice.

### **Confidentiality**

ECC/HANH must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

ECC/HANH must not allow any individual administering assistance or other services on behalf of ECC/HANH (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

ECC/HANH must not enter your information into any shared database or disclose your information to any other entity or individual. ECC/HANH, however, may disclose the information provided if:

- You give written permission to ECC/HANH to release the information on a time limited basis.
- ECC/HANH needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires ECC/HANH or your landlord to release the information.

VAWA does not limit ECC/HANH's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, ECC/HANH cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if ECC/HANH can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If ECC/HANH can demonstrate the above, ECC/HANH should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to

additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, ECC/HANH must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

### **For Additional Information**

If you have any questions regarding VAWA, please contact ECC/HANH's Reasonable Accommodation Manager at 203-498-8800.

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).

Or, contact local domestic violence service agencies, including:

- Domestic Violence Services of Greater New Haven  
<http://www.dvsgnh.org>  
PO Box 1329  
New Haven, CT 06505  
Phone: 203-865-1957
- In South Central Connecticut call the DVS hotline at 203-789-8104 or the state-wide hotline at 888-774-2900

➤ BHcare

<http://www.bhcare.org> Call us at either: (203) 736-2601 or (203) 483-2630

BHcare Central Administrative Office  
127 Washington Avenue, Third Floor West  
North Haven, CT 06473  
p. (203) 446-9739 f. (203) 446-9775

BHcare Shoreline Offices  
14 Sycamore Way  
Branford, CT 06405  
p. (203) 483-2630 f. (203) 483-2659

## 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 or intimate partner 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 or intimate partner
- 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 *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

## **EXHIBIT 16-2: SAMPLE NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

**[Insert Name of Housing Provider]**

### **NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS**

#### **UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, stalking and human trafficking.

#### **Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **[insert name of housing provider]** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

#### **Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

#### **Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (see 24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, stalking, or human trafficking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document:

1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, stalking, or human trafficking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the

applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, stalking, or human trafficking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking at eviction or termination proceedings.

Owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWAs (See FR Notice 1/4/23.)

## **Moves**

A victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

## **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or

unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

### **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

VAWA generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, VAWA does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking that is in question against the tenant or an affiliated individual of the tenant. Nor does VAWA prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

### **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

### **Service Providers**

[insert name of housing provider] has extensive relationships with local service providers. [insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

### **Definitions**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of

the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

[insert name of housing provider] VAWA Notice of Occupancy Rights

<b>EXHIBIT 16-3: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382</b>
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**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

<p><b>EXHIBIT 16-4: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)</b></p>
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Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
Housing Choice Voucher Program**

**Emergency Transfers**

ECC/HANH is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>3</sup> ECC/HANH allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The ability of ECC/HANH to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether ECC/HANH has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

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<sup>3</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify ECC/HANH's management office and submit a written request for a transfer to **any ECC/HANH office**. ECC/HANH will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under ECC/HANH's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

ECC/HANH will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives ECC/HANH written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about ECC/HANH's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

ECC/HANH cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. ECC/HANH will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. ECC/HANH may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If ECC/HANH has no safe and available units for which a tenant who needs an emergency transfer is eligible, ECC/HANH will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, ECC/HANH will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, ECC/HANH will assist you to move to a safe unit quickly using your existing voucher assistance. ECC/HANH will make exceptions to program regulations restricting moves as required.

At your request, ECC/HANH will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by ECC/HANH

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by ECC/HANH
- RAD/PBV assistance in another development not owned by ECC/HANH

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, ECC/HANH will refer you to organizations that may be able to further assist you.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

<b>EXHIBIT 16-5: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383</b>
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**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's) \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## Chapter 19

### MIXED FINANCE DEVELOPMENTS INCLUDING RENTAL ASSISTANCE DEMONSTRATION/PROJECT-BASED VOUCHER (RAD/PBV)

#### PROJECT DESCRIPTION MIXED DEVELOPMENTS

##### OVERVIEW

Mixed-Finance public housing allows HUD to mix public, private, and non-profit funds to develop and operate housing developments. New developments may be made up of a variety of housing types: HCV/PBV, homeownership, private, subsidized, and public housing. These new communities are provided for residents with a wide range of incomes and are designed to fit into the surrounding community.

Under its MTW Plan, ECC/HANH has increased the percentage of Housing Choice Voucher budget authority for the Agency that is permitted to project-base to 25%.

ECC/HANH may attach funding to mixed-finance developments which include Project-Based Section 8 units (the “PBV units”). These PBV units may be owned and managed by entities other than ECC/HANH. ECC/HANH may delegate certain admissions and occupancy functions as discussed within the Administrative Plan to the owners and/or managers of those mixed-finance developments. Such admissions and occupancy functions must be performed in accordance with this Administrative Plan and applicable HUD and ECC/HANH requirements.

Mixed-finance developments may be subject to Low-Income Housing Tax Credit (LIHTC) and/or Affordable Housing Program (AHP) Requirements. For purposes of this Administrative Plan:

- Tax Credit Requirements shall mean any and all matters required by Section 42 of the Internal Revenue Code of 1986 and regulations there under (Section 42), the Connecticut Housing Finance Agency (CHFA) or any agreement with a condition of receipt of tax credits, whether or not such requirement is explicitly stated in Section 42, or CHFA requirements; and
- AHP Requirements shall mean any and all matters required by the Federal Housing Finance Board Affordable Housing Program regulations at 12 CFR 951.

In order to ensure compliance with LIHTC and/or AHP Requirements, ECC/HANH will not impose any policy within this Administrative Plan upon any mixed-finance development if such policies would create non-compliance with Tax Credit Requirements and/or AHP Requirements.

**Policies within this chapter that are consistent with the HANH TBV and standard PBV program will state, “No changes to this section.” Please refer to the corresponding chapter.**

**Policies within this chapter that differ will be stated accordingly.**

ECC/HANH will not disapprove Owner policies required for compliance with LIHTC and AHP Requirements, unless mandated by PBV Requirements.

- Examples of policies that may differ than the Administrative Plan include the requirement for annual re-certifications (to the extent required by LIHTC Requirements) and different income tier requirements.

In the event of a conflict between any PBV contract requirements and this Administrative Plan, those deal-specific documents shall control as long as in compliance with PBV Requirements.

- “PBV Requirements” refers to 24 CFR HUD regulations, any HUD-approved waivers of regulatory requirements, and federal laws, notices and Executive Orders pertaining to Project-Based Section 8 Units, including future waivers or amendments.

ECC/HANH’s PBV/RAD program is designed to ensure that PBV assistance is used to support goals that may not be able to be equally achieved through the use of tenant-based voucher assistance.

ECC/HANH’s PBV/RAD program is committed to the following priorities:

1. Supportive housing for families and persons with disabilities;
2. Accessible housing for persons with mobility limitations;
3. Affordable housing opportunities in mixed-income developments and in neighborhoods that underserve low-income families, including neighborhoods with low minority concentrations and low concentrations of poverty
4. Neighborhood revitalization projects, including ECC/HANH’s public housing community redevelopment projects
5. Assisting families in imminent danger of homelessness

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, ECC/HANH is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, ECC/HANH is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

**RAD/PBV developments**

RAD/PBV allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two forms of Section 8 Housing

Assistance Payment (HAP) Contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). ECC/HANH will administer PBVs.

RAD provides the opportunity to test the conversion of public housing and other HUD-assisted properties to long-term, project-based Section 8 rental assistance to achieve certain goals, including the preservation and improvement of these properties through enabling access by ECC/HANH and owners to private debt and equity to address immediate and long-term capital needs. RAD is also designed to test the extent to which residents have increased housing choices after the conversion, and the overall impact on the subject properties.

Under RAD/PBV, the HAP Contract will be administered ECC/HANH and managed by a separate entity. Contract rents will be established and the initial contract will be for a period of at least 15 years and up to 20 years upon approval of ECC/HANH. At expiration of the initial contract and each renewal contract, the ECC/HANH shall offer, and the Project Owner shall accept, a renewal contract.

Each project with a PBV HAP Contract will also be subject to a RAD Use Agreement that will renew with the HAP Contract. ECC/HANH will provide a Choice-Mobility option to residents of Covered Projects. With the exception of provisions identified in PIH-2012-32 (HA) H-2017-03, Rev-3 (as well as retained flexibilities of Moving to Work (MTW) agencies), all regulatory and statutory requirements of the PBV program in 24 CFR part 983, and applicable standing and subsequent Office of Public and Indian Housing guidance, including related handbooks, shall apply.

## **Chapter 19**

### **SECTION I**

#### **OVERVIEW OF THE PROGRAM AND PLAN**

##### **INTRODUCTION**

No changes to this section.

##### **PART I: THE PHA (ECC/HANH)**

###### **1-I.A. OVERVIEW**

No changes to this section.

###### **1-I.B. ORGANIZATION AND STRUCTURE OF ECC/HANH**

No changes to this section.

###### **1-I.C. ECC/HANH MISSION**

No changes to this section.

###### **1-I.D. ECC/HANH'S PROGRAMS**

No changes to this section.

###### **1-I.E. ECC/HANH'S COMMITMENT TO ETHICS AND SERVICE**

No changes to this section.

##### **PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

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

For the standard PBV program:

In Section 232 of the Fiscal Year 2001 Appropriations Act, Congress authorized the project-based voucher program (PBV). The PBV program is a discretionary component of ECC/HANH's housing choice voucher (HCV) program. There are no appropriations for this program, instead funding comes directly from funds already obligated by HUD to ECC/HANH under its HCV Annual Contributions Contract (ACC). ECC/HANH may use up to 20 percent of its HCV budget authority for project-based vouchers.

For the RAD PBV program:

RAD is intended to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

ECC/HANH or owner can select one of two major sub-programs under RAD:

- Project-based rental assistance (PBRA)
- Project-based vouchers (PBVs)

HUD's Office of Multifamily Housing Programs administers the PBRA component, whereas HUD's Office of Public and Indian Housing administers the PBV component.

This chapter will focus on public housing conversions to the PBV program. In order to distinguish between requirements, we will refer to the standard PBV program and the RAD PBV programs.

For the LIHTC program:

The Low-Income Housing Tax Credit (LIHTC) program was enacted by Congress as part of the Tax Reform Act of 1986 to provide the private market with incentives for construction, rehabilitation, or acquisition of low-income affordable rental housing. These federal tax credits are allocated by the Internal Revenue Service (IRS) to state allocating agencies based, in part, on the state's population. In exchange for the investment in low-income housing, the owner receives tax credits for a period of ten years provided the owner maintains program compliance for at least 30 years.

## **1-II.B. HCV PROGRAM BASICS**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

For a description of the PBV program, see HANH's Administrative Plan, **Chapter 17 Project-Based Vouchers**.

### **1-II.C. THE HCV PARTNERSHIPS**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

For a description of the PBV program, see HANH's Administrative Plan, **Chapter 17 Project-Based Vouchers**.

### **1-II.D. APPLICABLE REGULATIONS**

For the standard PBV program:

The regulations are contained at 24 CFR 983. 24 CFR Part 982 applies to the PBV program, with the exception of sections that are not applicable as described in 24 CFR Part 983.

For the RAD PBV program

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, approved January 17, 2014) and the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, approved December 6, 2014), collectively, the "RAD Statute." RAD requirements may be found in PIH-2012-32 (HA), REV-2, RAD Quick Reference Guide (10/14), The Welcome Guide for New Awardees: RAD 1st Component (3/15), and RAD FAQs.

For the LIHTC program:

The applicable regulations are found at Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42"). The state-specific LIHTC compliance manual outlines state policies and procedures as well as timelines and required forms for the LIHTC program. The manual for the state of Connecticut may be accessed at:  
<http://www.spectrumlihtc.com/states/connecticut/>.

## **PART III: THE HCV ADMINISTRATIVE PLAN**

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

HANH's administrative plan already establishes guidelines for staff to follow to determine eligibility and continued occupancy for HANH's tenant-based HCV program. Selected parts of the administrative plan also apply to the standard and RAD PBV programs. On the whole, regulations for both the standard and RAD PBV programs generally closely follow the regulations for the tenant-based HCV program. While PBV regulations generally follow the tenant-based HCV voucher regulations, they are not identical. Further, RAD PBV rules further deviate from and waive specific standard PBV regulations. In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them and the RAD PBV

program follow many of the same regulations as the standard PBV program, but not all of them. Where applicable, the HCV policies in this document continue to govern the administration of the both the standard and RAD PBV programs, regardless of whether the units are in mixed-finance developments or not. In cases where HCV requirements are to be followed, no changes are made to the administrative plan. This additional chapter is development-specific and intended to address standard and RAD PBV requirements as well as those for the LIHTC program.

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

No changes to this section.

#### **1-III.C. ORGANIZATION OF THE PLAN**

No changes to this section.

#### **1-III.D. UPDATING AND REVISING THE PLAN**

No changes to this section.

## **Chapter 19**

### **SECTION II**

#### **FAIR HOUSING AND EQUAL OPPORTUNITY**

##### **INTRODUCTION**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Federal fair housing law imposes on the Department of Treasury and state housing finance agencies (HFAs), including the Connecticut Housing Finance Authority, an obligation to affirmatively further fair housing. Although the LIHTC program is an IRS program, in 2000 the IRS entered into a Memorandum of Understanding (MOU) with the HUD and the Department of Justice (DOJ) to enforce fair housing laws. HUD is generally charged with enforcing the Fair Housing Act and may refer cases to the DOJ.

##### **PART I: NONDISCRIMINATION**

##### **2-I.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

All units in the building must be for use by the general public (as defined in Regulation at section 1.42-9 and further clarified in section 42(g)(9)), including the requirement that no finding of discrimination under the Fair Housing Act occurred for the building.

LIHTC properties are also subject to Title VIII of the Civil Rights Act of 1968, which makes it unlawful to discriminate in any aspect relating to the sale, rental, or financing of dwellings because of race, color, religion, sex, or national origin. The Fair Housing Act of 1988 expanded coverage of Title VIII to include familial status and disabilities.

Notifications of administrative and legal actions in regards to the Fair Housing Act will be reported by CHFA to the IRS using Form 8823.

Since 2013, the Violence Against Women Act of 2013 (VAWA) applies to LIHTC properties.

While all of the laws listed in this chapter do not apply to the LIHTC program since tax credit owners are not considered recipients of federal financial assistance. However, since all units discussed in this policy are combined PBV/LIHTC units, the owner/agent must follow the more stringent requirements for the PBV program.

##### **2-I.B. NONDISCRIMINATION**

No changes to this section.

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

No changes to this section

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

A reasonable accommodation can be a physical modification to a unit or a relaxation to a rule/procedure that will assist an otherwise eligible applicant/resident with a disability to have equal opportunity to use and enjoy their housing or participate in housing services.

### **2-II.C. REQUEST FOR AN ACCOMMODATION**

No changes to this section.

### **2-II.D. VERIFICATION OF DISABILITY**

No changes to this section.

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

No changes to this section.

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

No changes to this section.

### **2-II.G PHYSICAL ACCESSIBILITY**

No changes to this section.

### **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

No changes to this section.

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

No changes to this section for the standard or RAD PBV programs.

### **2-III.A. OVERVIEW**

No changes to this section.

### **2-III.B. ORAL INTERPRETATION**

No changes to this section.

### **2-III.C. WRITTEN TRANSLATION**

No changes to this section.

### **2-III.D. IMPLEMENTATION PLAN**

No changes to this section.

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

**No changes to this section**

### **PART IV: VIOLENCE AGAINST WOMEN ACT (VAWA)**

#### **VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY (Act Includes Men)**

##### **1. Purpose and Applicability**

The purpose of Owner's Policy pursuant to the Violence Against Women Act (VAWA) is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2013 (Pub. L. 113-4) and more generally to set forth Owner's policies and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined. Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence. This section of the Administrative Plan sets forth those provisions of Owner's VAWA Policy which apply to the Residents of Owner's Rental Assistance Demonstration.

The purposes of these provisions are as follows:

- a. To maintain compliance with all applicable legal requirements imposed by VAWA;
- b. To ensure the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by Owner;
- c. To providing and maintain housing opportunities for victims of domestic violence, dating violence, or stalking;
- d. To create and maintain collaborative arrangements between Owner, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by Owner; and
- e. To take appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by Owner.

##### **2. Definitions**

- a. Domestic Violence – The term 'domestic violence' includes:
  - (A) felony or misdemeanor crimes of violence (including verbal, emotional, psychological, physical and sexual acts of abuse) 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 cohabiting with or has cohabited 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

- (B) 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."
- b. *Sexual assault* – Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent.
- c. *Dating Violence* – means violence committed by a person:
  - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - (i) The length of the relationship.
    - (ii) The type of relationship.
    - (iii) The frequency of interaction between the persons involved in the relationship.
- d. *Stalking* – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - (A) Fear for the person's individual safety or the safety of others; or
  - (B) Suffer substantial emotional distress
- e. *Affiliated Individual* - means, with respect to an individual:
  - (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands *in loco parentis*; or
  - (B) any individual, tenant, or lawful occupant living in the household of that individual.
- f. *Perpetrator* – means person who commits an act of domestic violence, sexual assault, dating violence or stalking against a victim.

### 3. Admissions and Screening

#### a. *Non-Denial of Assistance*

Owner will not deny admission to public housing to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.

#### b. *Admissions Preference*

Applicants for housing assistance from HANH will receive a preference in admissions by virtue of their status as victims of domestic violence, sexual assault, dating violence or stalking.

#### c. *Mitigation of Disqualifying Information*

When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, HANH shall take such information into account in mitigation of potentially disqualifying information, relevant to the domestic violence such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, HANH shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence

and its probable relevance to the potentially disqualifying information. HANH will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

#### **4. Termination of Tenancy or Assistance in connection with VAWA.**

##### **a. VAWA Protections**

Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by Owner:

1. An incident or incidents of actual or threatened domestic violence, sexual assault, dating violence, or stalking will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
2. In addition to the foregoing, tenancy or assistance will not be terminated by Owner as a result of criminal activity, if that criminal activity is directly related to domestic violence, sexual assault, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the resident’s control, and the resident or an immediate family member is the victim or threatened victim of this criminal activity.

However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

- (a) Nothing contained in this paragraph shall limit any otherwise available authority of Owner to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, sexual assault, dating violence, or stalking in question against the resident or a member of the resident’s household. However, in taking any such action, Owner shall not apply a more demanding standard to the victim of domestic violence, sexual assault, dating violence or stalking than that applied to other residents.
- (b) Nothing contained in this paragraph shall be construed to limit the authority of Owner to evict or terminate from assistance any resident or lawful applicant if Owner, can demonstrate an actual and imminent threat to other residents or to those employed at or providing service to the property, if the resident is not evicted or terminated from assistance.

##### **b. Removal of Perpetrator/Lease Bifurcation**

Owner may bifurcate a lease, or remove a household member or lawful occupant from a lease to evict, remove, terminate occupancy rights, or terminate assistance to such member who engage in criminal activity directly related to domestic violence, sexual assault, dating violence, or stalking against an affiliated individual or other individual. , Such action against the perpetrator of such violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the resident or a

lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, or local law applicable to terminations of tenancy.

## **5. Verification of Domestic Violence, Dating Violence or Stalking**

### **a. Requirement for Verification**

The law allows, but does not require, HANH to verify that an incident or incidents of actual or threatened domestic violence, sexual assault, dating violence, or stalking claimed by a resident or other lawful occupant is *bona fide* and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided below in paragraph 5, Owner shall require verification in all cases where an individual claims protection against an action involving such individual, proposed to be taken by Owner.

Verification of a claimed incident or incidents of actual or threatened domestic violence, sexual assault, dating violence or stalking may be accomplished in one of the following three ways:

1. HUD-approved form - by providing to Owner a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, sexual assault, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator only if known by the victim.
2. Other documentation - by providing to Owner documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
3. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, sexual assault, dating violence, or stalking
4. Time allowed to provide verification/ failure to provide - An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, sexual assault, dating violence or stalking, and is requested by Owner to return the completed application with supporting documentation, i.e. police reports, courts records, etc, within 14 business days of the date the application was requested. Failure to provide verification, in proper

form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.

5. Waiver of verification requirement - The President of HANH, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

## 6. Confidentiality

### a. Right of confidentiality

All information (including the fact that an individual is a victim of domestic violence, sexual assault, dating violence or stalking) provided to Owner in connection with a verification required or provided in lieu of such verification where a waiver of verification is granted, shall be retained by Owner in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, or
2. required for use in an eviction proceeding as permitted in VAWA, or
3. otherwise required by applicable law.

### b. Notification of rights

All residents shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

## 7. Transfer to New Residence

### a. Application for transfer

In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, sexual assault, dating violence, or stalking, Owner will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a LIHTC/RAD/PBV resident to a different unit in order to reduce the level of risk to the individual and/or family. Transfer from one LIHTC, ACC, PBV or RAD/PBV site will be allowed subject to approved LIHTC income guidelines for that site. VAWA transfer requests will be placed on a centralized transfer list for LIHTC/RAD/PBV/LIPH residents with the applicable preference.

A resident who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the resident or another member of the household who is or was the victim of domestic violence dating violence or stalking and who reasonably believes that the resident or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

b. Action on applications

Owner will act upon such an application within ten (10) calendar days.

c. No right to transfer

Owner will make every effort to accommodate requests for transfer when suitable alternative vacant units are available, and the circumstances warrant such action. However, the decision to grant or refuse to grant a transfer shall lie within the sole discretion of Owner, and this policy does not create any right on the part of any applicant to be granted a transfer.

d. Family rent obligations

If a family moves before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease term unless released by HANH. In cases where HANH determines that the family's decision to move was reasonable under the circumstances, HANH may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a resident subsequently occupying the unit.

## **8. Court Orders/Family Break-up**

a. Court orders

It is HANH's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by HANH. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

b. Family break-up

Other HANH policies regarding family break-up are contained in HANH's VAWA Policy, in HANH's Annual MTW Plan and in HANH's Section 8 Administrative Plan.

## **9. Relationships with Service Providers**

It is the policy of Owner to cooperate with organizations and entities, both private and governmental that provides shelter and/or services to victims of domestic violence. If Owner staff becomes aware that an individual assisted by Owner is a victim of domestic violence, sexual assault, dating violence or stalking, Owner may refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring Owner either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case.

(a) Notification

Owner shall provide written notification to applicants and residents, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

**Chapter 19**  
**SECTION III**  
**ELIGIBILITY**

**INTRODUCTION**

No changes to this section for the standard PBV program.

For the RAD PBV program:

ECC/HANH may not re-screen existing public housing tenants upon conversion. Current households are not subject to rescreening, income eligibility or income targeting. Current households are grandfathered in for conditions that occurred prior to conversion. They are, however, subject to any ongoing eligibility requirements for actions that occur after conversion.

When determining the eligibility of new admissions, the RAD PBV program follows the same eligibility criteria as the HCV program.

Under RAD, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right to return to the RAD project. ECC/HANH or the Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that all times prior to the resident’s decision, ECC/HANH and the Project Owner’s preserve the resident’s ability to exercise his or her right of return to the RAD project.

Alternative housing option package may include a variety of housing options including but not limited to:

- Transfer to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. ECC/HANH must operate their HCV programs, including any HCVs offered as alternative housing options, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 CFR part 982.

For the LIHTC program:

Managing eligibility in a tax credit project is a critical component in maintaining the credits. Unlike in the PBV program, the LIHTC program has no requirements to verify the citizenship status or social security number of any family member. Nor are there any requirements to deny applicants based on certain types of criminal activity. In order to be eligible for a LIHTC unit, the applicant household must:

- Have an income at or below the applicable MTSP income limit
- Be in compliance with the LIHTC student rule
- Meet the owner’s screening criteria (if any)

- Pay a restricted rent

For units assisted under the Housing Choice Voucher (HCV) or Project-Based Voucher (PBV) program that are located in a property also financed with Low-Income Housing Tax Credits (LIHTC), ECC/HANH will ensure that income eligibility is determined in accordance with HUD regulations at 24 CFR §5.609 (Annual Income).

To promote consistency and minimize administrative burden, ECC will accept the owner's income calculation for the LIHTC program only if the owner uses the same definition of annual income as HUD's Part 5, including all required inclusions and exclusions as outlined in HUD Handbook 4350.3 REV-1, Chapter 5. The owner must provide complete and current supporting documentation to the PHA for review and verification. ECC will verify all information in accordance with HUD's verification hierarchy, including mandatory use of the Enterprise Income Verification (EIV) system, and will make a final income eligibility determination.

- For initial eligibility, gross annual income will be compared to the applicable HCV income limits in effect at the time of admission. ECC will not use adjusted income for determining income eligibility.
- Once eligibility is determined, ECC will calculate the family's adjusted income per 24 CFR §5.611 to determine the family's share of rent and the housing assistance payment.
- This policy ensures compliance with both IRS Section 42(g) income requirements and HUD's Part 5 definition for HCV/PBV assistance.

## **PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

### **3-I.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC program uses the HUD Handbook 4350.3, REV-1 to define members of the household.

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

No changes to this section.

### **3-I.C. FAMILY BREAKUPS AND REMAINING MEMBER OF TENANT FAMILY**

No changes to this section for PBV.

For the LIHTC program:

**Original Household No Longer Occupied Unit (8823 Guide, Chapter 4)**

A LIHTC household may continue to add members as long as at least one member of the original low-income household continues to live in the unit. Once all the original tenants have moved out of the unit, the remaining tenants must be certified as a new income-qualified household unless the remaining tenants were independently income qualified at the time they moved into the unit.

**3-1.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

No changes to this section.

**3-1.E. SPOUSE, COHEAD, AND OTHER ADULT**

No changes to this section.

**3-1.F. DEPENDENT [24 CFR 5.603]**

No changes to this section.

**3-1.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Definition of full-time student: IRC §152(f)(2) defines, in part, a “student” as an individual, who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an educational organization described in IRC §170(b)(1)(A)(ii) or is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in IR §170(b)(1)(A)(ii) or of a state or political subdivision of a state. Treas. Reg. §1.151-3(b) further provides that the five calendar months need not be consecutive.

The determination of student status as full or part-time should be based on the criteria used by the educational institution the student is attending.

An educational organization, as defined by IRC §170(b)(1)(A)(ii), is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term “educational organization” includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade and mechanical schools. It does not include on-the-job training courses.

**3-1.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]**

No changes to this section.

**3-1.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]**

No changes to this section.

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

No changes to this section.

### **3-I.K. FOSTER CHILDREN AND FOSTER ADULTS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Foster children and foster adults who are living with an applicant or who have been approved by the owner/agent to live with a participant family are considered household members but not family members. The unearned income of foster children and unearned and earned income of adults is counted in family annual income for the LIHTC program. Foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13; HUD Handbook 4350.3 REV-1, CHG-4)

### **3-I.L. ABSENT FAMILY MEMBERS**

No changes to this section for the standard or RAD PBV programs.

This section applies to the LIHTC program with the following exceptions:

- A head, spouse or co-head who is absent because of military duty is considered temporarily absent. A son or daughter on active military duty is considered temporarily absent only if the person leaves dependents or a spouse in the unit.
- Add a definition of Family Members Permanently Confined for Medical Reasons that reads:

#### **Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, the family decides whether or not the person continues to be a household member.

### **3-I.M. LIVE-IN AIDE**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program, the policy is amended to read:

#### **ECC/HANH Policy**

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 HANH verification-at each annual reexamination.

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

No changes to this section for the standard PBV program.

For the RAD PBV program:

Existing residents are not subject to income eligibility requirements. An over-income household at the time of conversion would continue to be treated as an assisted unit under RAD requirements. Once the family moves out of the unit, the unit must then be leased to an income eligible family. All new admissions after conversion must also be income eligible and follow standard PBV requirements.

For the LIHTC program:

The paragraph on income limits is amended to read:

#### **Income Limits**

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

HUD publishes separate income limits for LIHTC projects called the Multifamily Tax Subsidy Income Limits. Multifamily Tax Subsidy Projects (MTSP) Income Limits were developed to meet the requirements established by the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289) that allows 2007 and 2008 projects to increase over time. The MTSP income limits are used to determine qualification levels as well as set maximum rental rates for projects funded with tax credits.

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

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

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

*50% MTSP income limit:* The initial 50 percent income limit for each Non-Impacted MTSP is the Section 8 VLIL. In subsequent years, the income limit for each MTSP may not decline and will be the highest Section 8 VLIL obtained throughout the project's qualifying period.

*60% MTSP income limit:* The 60 percent income limit for MTSPs is calculated by multiplying the MTSP VLIL by 1.2 (IRS Revenue Ruling 89-24)

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

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent

of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

#### **Using Income Limits for Eligibility [24 CFR 982.201]**

For units with LIHTCs blended with either standard PBV or RAD PBV new admissions after conversion:

Income eligibility is determined by comparing the annual income of an applicant family to the applicable income limit for their family size. In order to be income eligible, an applicant family's anticipated income must be under the *lower* of the following income limits:

- The *very low-income* limit (50% Section 8 income limit); and
- The applicable 60% MTSP income limit

For LIHTC units blended with RAD PBV with existing residents at the time of the conversion:

The LIHTC program does not recognize protections for existing residents. In order for a unit to qualify as an LIHTC unit, the family must be under the applicable MTSP income limit.

#### **Using Income Limits for Targeting [24 CFR 982.201]**

For all new admissions, when using income limits for income targeting, use the lower of:

- The *extremely low-income* low Section 8 income limit); and
- The applicable 60% MTSP income limit

For the RAD PBV program:

The income targeting requirement does not apply to existing residents at the time of conversion. Subsequent new admissions count towards ECC/HANH's calculation.

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

No changes to this section for the standard PBV program or new admissions to the RAD PBV program.

For the RAD PBV program:

Existing residents at the time of conversion are not re-screened for their citizenship status.

This section does not apply to the LIHTC program.

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

No changes to this section for the standard PBV program or new admissions to the RAD PBV program.

For the RAD PBV program:

Existing residents at the time of conversion do not have their social security numbers re-verified.

This section does not apply to the LIHTC program.

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

No changes to this section for the standard PBV program.

This section does not apply to the LIHTC program.

The state of Connecticut's LIHTC compliance manual requires that an authorization of release of information accompany verification requests.

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

For units with LIHTCs blended with either standard PBV or RAD PBV, both the HUD student rule and the LIHTC student rule must be satisfied. The following section is amended to read:

#### **HUD student rule for combined LIHTC/PBV Units:**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility for PBV 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 PBV 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 PBV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with ECC/HANH 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 PBV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

#### **Definitions**

No changes to this section for the standard or RAD PBV programs.

#### ***Dependent Child***

No changes to this section for the standard or RAD PBV programs.

#### ***Independent Student***

No changes to this section for the standard or RAD PBV programs.

#### ***Institution of Higher Education***

No changes to this section for the standard or RAD PBV programs.

#### ***Parents***

No changes to this section for the standard or RAD PBV programs.

***Person with Disabilities***

No changes to this section for the standard or RAD PBV programs.

***Veteran***

No changes to this section for the standard or RAD PBV programs.

**Determining Student Eligibility**

No changes to this section for the standard or RAD PBV programs.

***Determining Parental Income Eligibility***

No changes to this section for the standard or RAD PBV programs.

In addition, the above HUD student rule, all units with LIHTCs combined with standard PBV or RAD PBV must also comply with the LIHTC student rule. The following section is added:

**The LIHTC Student Rule**

Units comprised of full-time students (as defined by IRC §152(f)(2)) do not qualify as LIHTC units, unless the applicant household meets one or more of the following exceptions:

Exceptions: A unit would not be disqualified for tax credits if it is occupied as specified in Section 42(i)(3)(D):

- (i) By an individual who is:
  - I. A student and receiving assistance under title IV of the Social Security Act; or
  - II. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or Part E of title IV of the Social Security Act (foster care), or
  - III. A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws; or
- (ii) Entirely by full-time students if such students are:
  - I. Single parents and their children and such parents are not dependents (as defined in section 152) and the children are not dependents of another individual other than the parents, or
  - II. Married and file a joint return.

**PART III: DENIAL OF ASSISTANCE**

**3-III.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither the IRS nor the Connecticut Housing Finance Agency require that applicants be denied based on certain types of drug abuse or criminal activity. The owner/agent may develop fair, reasonable screening criteria in the LIHTC program. The owner/agent's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking. Since units are combined LIHTC/PBV units, the more stringent PBV requirements should be followed.

Addition:

LIHTC and RAD/PBV Owners will deny admission based on ECC/HANH Denial of Assistance and may establish additional screening criteria for admissions to the property

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

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

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

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

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

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

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

**Criminal Activity [24 CFR 982.553]**

No changes to this section

Addition:

The Owner will follow the Intent to Deny procedure as established by ECC/HANH, thereby giving the applicant household an opportunity to review and explain the criminal background, before any further action is taken.

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

No changes to this section

**3-III.D. SCREENING**

**Screening for Eligibility**

No changes to this section.

**Screening for Suitability as a Tenant [24 CFR 982.307]**  
**No changes to this section**

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

**Evidence [24 CFR 982.553(c)]**

No changes to this section.

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

No changes to this section.

**Removal of a Family Member's Name from the Application**

No changes to this section.

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

No changes to this section.

### **3-III.F. NOTICE OF ELIGIBILITY OR DENIAL**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

There is no requirement for a written denial notice nor for an informal review. However, since units are combined PBV/LIHTC, the more stringent PBV requirements should be followed.

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

No changes to this section.

## Chapter 19

### SECTION IV

#### APPLICATIONS, WAITING LIST, TENANT SELECTION AND TRANSFER POLICY

##### INTRODUCTION

No changes to this section for the standard PBV program.

For the RAD PBV program:

RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. As part of the conversion process, ECC/HANH must consider the best way to transition families who are already on the existing public housing waiting list to the new RAD/PBV waiting list. Considerations vary depending on whether the current public housing waiting list is system-wide or site-based and on what type of waiting list ECC/HANH will adopt once units are converted. While special consideration must be given when initially establishing the RAD PBV waiting list, once the waiting list is established, requirements are the same in RAD PBV as in the regular PBV program.

For the LIHTC program:

Neither the state of Connecticut nor the IRS Code requires owner/agents to maintain a written waiting list or adopt a written tenant selection plan. An Application for Housing is included in the state of Connecticut's LIHTC compliance manual and must be used as part of the application process.

##### ECC/HANH Policy

**ECC has chosen to maintain a separate site-based waiting list for each RAD project.**

#### PART I: THE APPLICATION PROCESS

##### 4-I.A. OVERVIEW

No changes to this section for the standard or RAD PBV programs.

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

ECC-HANH currently has one TBV wait list for use by all standard PBV and a separate site-based waiting list for each PBV RAD developments. **The site-based waiting list for each PBV RAD development shall be established in accordance with the tenant selection program for that project.** Applications for assistance will be processed by the Management Agent/Owner responsible for each development.

The Application for Housing included in the Tax Credit compliance manual for the state of Connecticut must be used for all LIHTC/PBV units. The information furnished on the fully completed application must be reviewed along with supplementary historical documents submitted with the application.

#### ECC/HANH Policy

When opening the waiting list, ECC/HANH will publicly announce the accepting of applications (see Section 4-II-C).

Applicants may apply for the wait list through the ECC/HANH Applicant portal at <https://ecc.myhousing.com>. If the applicant needs a reasonable accommodation to complete the pre-application, the applicant may contact the Reasonable Accommodation Manager. Application forms can also be obtained at the ECC/HANH website at [www.elmcitycommunities.org](http://www.elmcitycommunities.org) or United Way's 211 Info line at <http://www.cthcvp.org>.

A family may request to pick up an application form at the agency offices or to have the application mailed to them as a reasonable accommodation.

All applications received via mail will be date and time stamped. Mailed applications will be added to the waitlist based on the date and time that they are stamped as received.

Only one application will be accepted per family; duplicate applications will not be accepted and will be discarded.

Applications received after the published deadline date will not be accepted.

Completed applications must be submitted via the Wait List portal. Applications must be complete in order to be accepted by the ECC/HANH for processing.

The Applicant Portal does not allow incomplete applications to be submitted through the portal. If a pre-application submitted in any way other than the portal is incomplete, the ECC/HANH will not accept the application but will instead notify the applicant by mail or email, if applicable, that the application is incomplete and has been denied.

An applicant whose application has been denied for being incomplete or for not meeting the published application criteria will be provided with the opportunity to appeal ECC/HANH's decision that the application was incomplete or for not meeting the published application criteria within 10 business days of the notice of application denial.

### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

No changes to this section.

### **4-I D. PLACEMENT ON THE WAITING LIST**

No changes to this section

## **PART II: MANAGING THE WAITING LIST**

## 4-II. A. OVERVIEW

No changes to this section.

## 4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

ECC-HANH currently has one TBV wait list for use by the **standard PBV and a separate waitlist for each** PBV RAD developments. Once the TBV list is exhausted each development will maintain a site-based waiting list. Applications for assistance will be processed by the Management Agent responsible for each development.

At the time of the approval of the **RAD Conversion Commitment (RCC)** the waitlist for each site based RAD development shall be established per the tenant selection plan for that project.

ECC/HANH's HCV waiting list must be organized in such a manner to allow ECC/HANH to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

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

- Applicant name;
- Social Security Number
- Date of Birth
- Applicant address
- Family unit size;
- Amount and annual source of income
- Racial or ethnic designation of the head of household.
- Gender
- Date and time of application;
- Qualification for any local preference.

## 4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

### Closing the Waiting List

No changes to this section.

### Reopening the Waiting List

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

ECC/HANH Policy

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

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

- Local city newspapers, i.e The New Haven Register
- Neighborhood newspapers, i.e La Voz, The Inner City
- ECC/HANH website, [www.elmcitycommunities.org](http://www.elmcitycommunities.org)
- ECC/HANH social media sites, i.e Facebook, Instagram, other social media
- New Haven's Office on Disabilities
- State of Connecticut website

The notice will contain:

- The dates, times, and the wait list in which the families may apply.
- The system of waiting lists offered by ECC/HANH.
- The programs for which applications will be taken.
- A brief description of the program.
- A statement that Section 8 participants must submit a separate application if they want to apply for Public Housing.
- Limitations, if any, on who may apply.
- The date application intake will be suspended.

The notices will be made in an accessible format and provided as requested in accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA) regulations. ECC/HANH will furnish appropriate auxiliary aids and services where necessary to afford individuals with hearing and vision impairments an equal opportunity to access the notices.

Notices will be made available in accessible formats for individuals with limited English proficiency, in accordance with HUD's Limited English Proficiency Guidance and 72 Fed. Reg. 2732.

Notices will provide potential applicants with information that includes;

- ECC/HANH's address and telephone number,
- how to submit an application,
- information on eligibility requirements,
- a point of contact who can answer questions,
- any limitations on who may apply, and
- any other information the applicant may need to successfully submit the application.

ECC/HANH will give public notice by publishing the relevant information in suitable media outlets including the following newspapers, minority publications, and media entities:

~~—— New Haven Register, Inner City, The City of New Haven's Office on Disabilities, and the State of Connecticut website.~~

~~The notice will contain:~~

- ~~• When the waiting list will be open;~~
- ~~• The deadline for receipt of applications;~~
- ~~• How and where to apply (see Section 4 I.B);~~
- ~~• The programs for which applications will be taken;~~
- ~~• A brief description of the program;~~
- ~~• ECC/HANH's preferences; and,~~
- ~~• Limitations, if any, on who may apply.~~

ECC/HANH's waiting list will always remain open for the following families who have the preferences listed below.

*Note: This is not a preference hierarchy*

- **Displaced by Government Action**

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following:

- a. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA).
- b. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons. i.e. Fire Dept, LCI
- c. Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

~~i. Displacement as the result of ECC/HANH planned development/demolition/disposition activity, including from buildings condemned for health and safety reasons, and including from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA)~~

~~ii. Displacement as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons;~~

~~iii. Displacement as defined by US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.~~

- **Reasonable Accommodation**

Reasonable Accommodation for disability issues under the Fair Housing Act for residents currently residing in an ECC/HANH public housing unit who require an accessible unit as a reasonable accommodation where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH public housing unit.

- **Violence Against Women Act (VAWA)**

Violence Against Women Act (VAWA) for applicants on the LIPH waitlist and LIPH residents who are victims of domestic violence, dating violence, sexual assault or stalking including LIPH resident and applicant families claiming protections under the Violence Against Women Act (VAWA), See the VAWA preference policy for more information;

- **Documented Witness Protection Program**

For persons or families that are in a documented Witness Protection Program. Documentation to be provided by the appropriate law enforcement agency.

- **LIPH Emergency – Health and Safety Dwelling**

Currently residing in an ECC/HANH public housing unit where dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and the transfer to another public housing unit is not available, where necessary repairs cannot be made within a reasonable time, or a unit does not meet the needs of the family.

- **LIPH – Crime and Safety**

An individual or family currently residing in an ECC/HANH public housing unit, who are in a situation involving crime and safety, where transfer of a current Low Income Public Housing family to another public housing development does not meet the needs of the family, due to other situations involving crime and safety.

- **Homeless**

For individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN) for project-based developments with homeless requirements.

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

No changes to this section.

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

No changes to this section.

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

No changes to this section.

##### **Purging the Waiting List**

No changes to this section.

#### ECC/HANH Policy

The waiting list will be updated as needed to ensure that all applicants and applicants' information is current and timely.

ECC/HANH will consider the following factors when deciding to purge/update the waiting list and may decide to purge a portion of the Waiting List at a given time.

- The number of applicants expected to be selected within a reasonable time, i.e. 12-24 months
- Removing families who are no longer interested or eligible to participate in the HCV program

To purge the waiting list, ECC/HANH may send purge letter notifications via the Applicant Portal, electronic or first-class mail to each family on the waiting list to determine whether the family continues to be interested in, and/or to qualify for the HCV program.

This purge letter will be sent to the last electronic or mailing address, that ECC/HANH has on record for the family. The purge letter will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

Applicants must verify and update all the information needed to remain on the waiting list, such as mailing address, phone number, household composition, income, and email address if applicable.

The applicant must indicate that they wish to remain on the specific waiting list or if they wish to be removed.

The family's response must be in writing and may be delivered in person or by applicant portal or electronic or first-class mail. Responses should be postmarked or received by ECC/HANH no later than 15 business days from the date of ECC/HANH's letter.

If no response is received by the deadline, the applicant will be removed from all applicable Waiting Lists and a copy of the [notice](#) shall be maintained in the file with a note indicating the date and reason for removing the applicant from the Waiting List.

NOTE: Purging of the internal transfer list for residents will be done separately from the external waiting lists for applicants.

The family's response must be in writing and may be delivered in person or by applicant portal or electronic or first-class mail. Responses should be postmarked or received by ECC/HANH, at a minimum, no later than 15 business days from the date of ECC/HANH's letter

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

ECC/HANH may extend the deadline date to respond accordingly by notifying the applicants of such extension.

If the notice is returned by the post office marked undeliverable or with no forwarding address, or if the electronic communication is returned as undeliverable, the applicant will be removed from the waiting list without further notice. A copy of the letter shall be maintained in the file with a note indicating the date and reason for removing the applicant from 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. The address will be updated accordingly in the ECC/HNH electronic wait list system. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice. The returned mail must be filed in the file.

When a family is removed from the waiting list during the purge process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent ECC/HANH from making an eligibility determination; therefore, no informal hearing is required.

The removal must be documented in the file. A copy of the original letter should be included in the file with a note indicating the date and reason for the removal.

If a family is removed from the waiting list for failure to respond, ECC/HANH may reinstate the family if the lack of response was due to ECC/HANH error, or to circumstances beyond the family's control to include but limited to, hospitalization, delayed mail delivery, or other reasonable accommodation circumstances.

Due to the length of the waiting list, it may not be cost effective to purge the entire waiting list at one time. ECC/HANH will have the discretion to purge a portion of the waiting list in order to have current information on those applicant families that may be likely to reach the top of the waiting list in the next 12 months.

ECC/HANH may decide to conduct a purge with in-house staff or contracting out the service to complete the function.

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to an ECC/HANH request for information or updates, and ECC/HANH determines that the family did not respond because of the family member's disability, ECC/HANH must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

## **Removal from the Waiting List**

No changes to this section.

## PART III: SELECTION FOR HCV ASSISTANCE

### 4-III.A. OVERVIEW

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

### 4-III.B. SELECTION AND HCV FUNDING SOURCES

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

### 4-III.C. SELECTION METHOD

Applicants who will occupy units with standard PBV must be selected according to the corresponding Admission and Continued Occupancy Plan (ACOP) and/or Housing Choice Voucher Administrative Plan (Admin Plan) for each development. Applicants for PBV/RAD assistance will be selected in accordance with the Admin Plan and the Tenant Selection Plan for each RAD PBV development.

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

ECC/HANH is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits ECC/HANH to establish other local preferences, at its discretion. Any local preferences established must be consistent with the ECC/HANH Moving to Work Annual Plan and the City of New Haven's Consolidated Plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

ECC/HANH offers preferences to families in the order stated below. These preferences apply to the non-Rental Assistance Development (RAD) LIHTC/PBV and LIPH units only.

For the RAD units, please refer to the applicable Resident Selection Plans.

#### **1.) Displaced by Government Action**

Persons displaced by government action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or formally recognized pursuant to Federal disaster relief laws. 24 CFR 5.403(b). This preference will be prioritized in the following:

- a.d. Displacement of residents living in ECC/HANH developments as the result of ECC/HANH planned development/demolition/disposition activity, including from ECC/HANH buildings condemned for health and safety reasons, which would require the family to relocate for more than 3-6 months. This also includes relocation and including from ECC/HANH public housing units undergoing demolition/disposition, if such action is under a Uniform Relocation Act (URA)

- ~~b.e.~~ Displacement of residents living in ECC/HANH developments as the result of a local natural disaster and/or condemnation of a property or dwelling for health and safety reasons; i.e. Fire Dept., LCI
- ~~e.f.~~ Displacement as defined by the US Department of Housing and Urban Development as the result of a natural disaster or event defined Emergency event resulting in the displacement of persons needing housing assistance.

## 2.) ECC - Reasonable Accommodation -

### 3.) Reasonable Accommodation for disability issues under the Fair Housing Act for residents currently residing in an ECC/HANH public housing unit who require an accessible unit as a reasonable accommodation where ECC/HANH is unable to accommodate the need through the transfer to another ECC/HANH public housing or RAD/PBV or PBV unit.

~~Reasonable Accommodation for disability issues under the Fair Housing Act for residents currently residing in an ECC/HANH public housing, PBV or RAD/PBV unit who require a transfer as a reasonable accommodation where a vacant unit would meet a resident's disability related need(s).~~

### ~~3.)~~4.) Violence Against Women Act (VAWA)

#### 5.) Violence Against Women Act (VAWA) for LIPH residents who are victims of domestic violence, dating violence, sexual assault or stalking including LIPH resident families claiming protections under the Violence Against Women Act (VAWA).

#### 6.) Violence Against Women Act (VAWA) for applicants who are victims of domestic violence, dating violence, sexual assault or stalking including LIPH resident and applicant families claiming protections under the Violence Against Women Act (VAWA), See the VAWA preference policy for more information.

*\*This preference applies if an applicant is already on the site-based waitlist as a result of having previously applied for site-based waitlist. The preference will be applied, and the applicant will be repositioned on the waitlist based on the date of the approval date.*

*An applicant who is not yet on the RAD/PBV site-based waitlist will be added only to the LIPH applicant site-based waitlist as outlined in the ACOP.*

### 4.)7.) Documented Witness Protection

For individuals or families that are in a documented Witness Protection Program. Documentation ~~to be~~ must provided by the appropriate law enforcement agency.

### 5.)8.) Emergency – Health and Safety Dwelling

For individuals and families currently residing in an ECC/HANH public housing unit where dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants and the transfer to another public housing unit is not available, where necessary repairs cannot be made within a reasonable time, or a unit does not meet the needs of the family.

### 6.)9.) LIPH – Crime and Safety

Currently residing in an ECC/HANH public housing unit, who are in a situation involving crime and safety, where transfer of a current Low-Income Public Housing family to another public housing development does not meet the needs of ECC/HANH public housing residents due to other situations involving crime and safety.

#### **7-10.) Homeless**

For individuals and families who meet the HUD definition of homeless and are direct referrals from the Coordinated Access Network (CAN) for project-based developments with homeless requirements.

#### **Note:**

#### **For families with a Reasonable Accommodation preference in the LIHTC/PBV and RAD/PBV units:**

- 1) For LIHTC/PBV or RAD/PBV units with accessible features,
  - a. selection will be given to existing residents (per the Tenant Selection Plan) who have been approved for a reasonable accommodation transfer and who need the accessibility features of the available accessible unit.
  - b. selection will be given to residents from LIPH, PBV and RAD/PBV units who have been placed on the ECC/HANH Reasonable Accommodation Transfer List because they require an accessible unit.
  - c. selection will be given to applicant families from the ECC/HANH agency wide Accessible Waiting List
- 2) For families with a Reasonable Accommodation preference for a non-accessible unit
  - a. selection will be given to existing residents (per the Tenant Selection Plan) who have been approved for a reasonable accommodation transfer and whose disability-related needs would be met by a transfer to that particular vacant unit.
  - b. selection will be given to residents from LIPH, PBV and RAD/PBV units who have been placed on the ECC/HANH Reasonable Accommodation Transfer List and whose disability-related needs would be met by a transfer to that particular unit.
  - c. selection will be given to applicant families from the ECC/HANH agency wide Accessible Waiting List
- 3) A family may request a transfer as a reasonable accommodation for a disability. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer for a person with a mobility impairment, a unit with a bed and bath on the first floor or a transfer to a unit with accessible features.
- 4) Once a family's reasonable accommodation has been approved, the family will be placed on the Reasonable Accommodation Transfer List based on the date of such reasonable accommodation request and bedroom size. Approved families will be offered an available unit that meets their disability related needs in a Low-Income Public Housing (LIPH), Project Based Voucher (PBV) or RAD/PBV development/portfolio accordingly.

- 5) Once it has been determined that ECC/HANH cannot accommodate the family in the LIPH, PBV or RAD/PBV portfolio, the family will be added to the HCV/TBV Reasonable Accommodation List for an opportunity for a Tenant Based Voucher (TBV). The family will be given the option for a TBV or may choose to remain on the Reasonable Accommodation Transfer list until a unit that meets their needs becomes available. *(See Local Preference no. 2 listed above)*
- 6) The Property Manager for each development within the ECC/HANH portfolio will notify the Reasonable Accommodation Manager of all tenants approved for a reasonable accommodation transfer and such persons will **be placed** on the Reasonable Accommodation Transfer List based on date of approval and bedroom size so they may be accommodated accordingly and timely.

All other selections (not related to reasonable accommodations) occur as follows.

Each RAD/-PBV OR pbv site shall maintain a site-based waiting list. Returning residents and applicants will be selection from the waitlist per the Tenant Selection Plan for each RAD/PBV or PBV development.

<u><b>RAD Development</b></u>	<u><b>Waiting List Selection</b></u>
<u><b>RAD GROUP I</b></u> <ul style="list-style-type: none"> <li>• <u>Constance Baker Motley (CB Motley)</u></li> <li>• <u>Katherine Harvey Terrace</u></li> <li>• <u>Newhall Gardens</u></li> <li>• <u>Prescott Bush</u></li> </ul>	<ul style="list-style-type: none"> <li>1) <u>Right to Return Residents</u></li> <li>2) <u>LIPH Site Based Waiting List</u></li> <li>3) <u>RAD Site Based Waiting List</u></li> </ul>
<u><b>RAD GROUP II</b></u> <ul style="list-style-type: none"> <li>• <u>Stanley Justice</u></li> <li>• <u>Fulton Park</u></li> <li>• <u>Waverly Townhouses</u></li> <li>• <u>76 Glen Haven</u></li> </ul>	<ul style="list-style-type: none"> <li>1) <u>Right to Return Residents (if applicable)</u></li> <li>2) <u>LIPH Scattered Site Wait List</u></li> <li>3) <u>Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u></li> <li>4) <u>RAD Site Based Waiting List</u></li> </ul>
<u><b>RAD GROUP III</b></u> <ul style="list-style-type: none"> <li>• <u>McQueeney Towers</u></li> </ul>	<ul style="list-style-type: none"> <li>1) <u>Right to Return Residents (if applicable)</u></li> <li>2) <u>LIPH Site Based Wait List</u></li> <li>3) <u>Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u></li> </ul>

<ul style="list-style-type: none"> <li>• <u>William Celentano</u></li> </ul>	<u>4) RAD Site Based Waiting List</u>
<u>RAD GROUP IV</u> <ul style="list-style-type: none"> <li>• <u>Matthew Ruoppolo Manor</u></li> <li>• <u>Fairmont Heights</u></li> </ul>	<u>1) Right to Return Residents (if applicable)</u> <u>2) LIPH Site Based Wait List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) RAD Site Based Waiting List</u>
<u>WILMOT CROSSINGS</u>	<u>1) West Rock Right to Return Residents</u> <u>2) Wilmont Crossing Public Housing Waiting List</u> <u>3) Applicants on the HCV Waiting List as of the the issuance of the RCC</u> <u>4) Wilmont Crossing RAD Site Based Waiting List</u>
<u>TWIN BROOK (RIBICOFF)</u>	<u>1) Ribicoff Returning Residents</u> <u>2) Public Housing Ribicoff Site Based Waiting Lists</u> <u>3) Applicants on the HCV Waiting List as of the issuance of the RCC</u> <u>4) Twin Brook RAD Site Based Waiting List</u>
<u>EASTVIEW</u>	<u>1) Eastview Terrace Right to Return Residents</u> <u>2) Eastview Terrace I Public Housing Waiting List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) Eastview Terrace RAD Site Based Waiting List</u>
<u>FAIR HAVEN RAD</u>  <u>FAIR HAVEN/ CHATHAM</u>	<u>1) Farnam Right to Return Residents</u> <u>2) Farnam Public Housing Waiting List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) Fair Haven RAD Site Based Waiting List</u>
<u>MILL RIVER CROSSINGS</u>	<u>1) Farnam Right to Return Residents</u> <u>2) Farnam Public Housing Waiting List</u> <u>3) Applicants on the HCV Waiting List as of the issuance of the RCC</u> <u>4) Mill River RAD Site Based Waiting List</u>

<u>VALLEY TOWNHOUSES</u>	<u>1) Valley Townhouses Right to Return Residents (if applicable)</u> <u>2) Valley Townhouses LIPH Wait List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) Valley Townhouses RAD Site Based Waiting List</u>
<u>MCCONAUGHY TERRACE</u>	<u>1) McConaughy Terrace Right to Return Residents (if applicable)</u> <u>2) McConaughy Terrace LIPH Wait List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) McConaughy Terrace RAD Site Based Waiting List</u>
<u>ROBERT T WOLFE</u>	<u>1) Right to Return Residents (if applicable)</u> <u>2) LIPH Wait List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) Robert T Wolfe Site Based Waiting List</u>
<u>CRAWFORD MANOR</u>	<u>1) Right to Return Residents (if applicable)</u> <u>2) LIPH Wait List</u> <u>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</u> <u>4) Site Based Waiting List</u>
<u>BROOKSIDE I &amp; II (PBV)</u>	<u>1) Returning West Rock Residents</u> <u>2) HCV Waiting List</u> <u>3) Brookside PBV Site Based Waiting List</u>
<u>ROCKVIEW TERRACE (PBV and RAD)</u>	<u>1) Returning West Rock Residents</u> <u>2) Westville Manor Site Based Waiting List</u> <u>3) HCV Waiting List</u> <u>4) Rockview RAD Site Based Waiting List</u>
<u>QUINNIPIAC TERRACE (PBV)</u>	<u>1) Quinnipiac Terrace Right to Return Residents</u> <u>2) HCV Waiting List</u> <u>3) Quinnipiac PBV Site Based Waiting List</u>

<u>TRINITY ROWE (PBV)</u>	<u>1) Trinity Rowe Right to Return Residents</u> <u>2) Trinity Rowe LIPH Wait List</u> <u>3) HCV Waiting List</u> <u>4) Trinity Rowe PBV Site Based Waiting List</u>
<u>MONTEREY PLACE</u>	<u>1) Current Monterey LIPH Wait List</u> <u>2) HCV Wait List</u> <u>3) Monterey RAD Site Based Wait List</u>

<b>Development</b>	<b>Waiting List Selection</b>
<del>Eastview Terrace I- RAD</del>	<del>1) Eastview Terrace Right to Return Residents</del> <del>2) Eastview Terrace I Public Housing Waiting List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Eastview Terrace RAD Site Based Waiting List</del>
<del>Eastview Terrace- PBV</del>	<del>1) HCV Waiting List</del> <del>2) Eastview Terrace PBV Site Based Waiting List</del>
<del>Fair Haven RAD (Eastview and Chatham)</del>	<del>1) Farnam Right to Return Residents</del> <del>2) Farnam Public Housing Waiting List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Fair Haven RAD Site Based Waiting List</del>
<del>Wilmont Crossing- RAD</del>	<del>1) West Rock Right to Return Residents</del> <del>2) Wilmont Crossing Public Housing Waiting List</del> <del>3) Applicants on the HCV Waiting List as of the the issuance of the RCC</del> <del>4) Wilmont Crossing RAD Site Based Waiting List</del>
<del>Wilmont Crossing- PBV</del>	<del>1) HCV Waiting List</del> <del>2) Wilmont Crossing PBV Site Based Waiting List</del>

<del>Wilmont Crossings— Elderly Only Units</del>	<del>1) Wilmont Crossing Elderly Only Site Based Waiting List</del>
<del>Mill River Crossings/Farnam— RAD</del>	<del>1) Farnam Right to Return Residents 2) Farnam Public Housing Waiting List 3) Applicants on the HCV Waiting List as of the issuance of the RCC 4) Mill River RAD Site Based Waiting List</del>
<del>Ribicoff/ Twin Brook— RAD</del>	<del>1) Ribicoff Returning Residents 2) Public Housing Ribicoff Site Based Waiting Lists 3) Applicants on the HCV Waiting List as of the issuance of the RCC 4) Twin Brook RAD Site Based Waiting List</del>
<del>Brookside I &amp; II PBV</del>	<del>1) Returning West Rock Residents 2) HCV Waiting List 3) Brookside PBV Site Based Waiting List</del>
<del>Rockview I—PBV</del>	<del>1) Returning West Rock Residents 2) HCV Waiting List 3) Rockview PBV Site Based Waiting List</del>
<del>Rockview II—RAD</del>	<del>1) Returning West Rock Residents 2) Westville Manor Site Based Waiting List 3) HCV Waiting List 4) Rockview RAD Site Based Waiting List</del>
<del>Quinnipiac Terrace I, II, III—PBV</del>	<del>1) Quinnipiac Terrace Right to Return Residents 2) HCV Waiting List 3) Quinnipiac PBV Site Based Waiting List</del>
<del>Trinity Rowe—PBV</del>	<del>1) Trinity Rowe Right to Return Residents 2) Trinity Rowe LIPH Wait List 3) HCV Waiting List 4) Trinity Rowe PBV Site Based Waiting List</del>
<del>Monterey Place—RAD</del>	<del>1) Current Monterey LIPH Wait List 2) HCV Wait List 3) Monterey RAD Site Based Wait List</del>

<del>RAD Group I— Constance Baker Motley (CB Motley)</del>	<del>1) CB Motley Right to Return Residents 2) CB Motley LIPH Site Based Waiting List 3) CB Motley RAD Site Based Waiting List</del>
<del>RAD Group I— Katherine Harvey Terrace</del>	<del>1) Katherine Harvey Terrace Right to Return Residents 2) Katherine Harvey Terrace LIPH Site Based Waiting List 3) Katherine Harvey Terrace RAD Site Based Waiting List</del>
<del>RAD Group I— Newhall Gardens</del>	<del>1) Newhall Gardens Right to Return Residents 2) Newhall Gardens LIPH Site Based Waiting List 3) Newhall Gardens RAD Site Based Waiting List</del>
<del>RAD Group I— Prescott Bush</del>	<del>1) Prescott Bush Right to Return Residents 2) Prescott Bush LIPH Site Based Waiting List 3) Prescott Bush RAD Site Based Waiting List</del>
<del>RAD Group II—Stanley Justice Landing</del>	<del>1) Stanley Justice Right to Return Residents (if applicable) 2) Scattered Site Wait List 3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC 4) Scattered Site RAD Site Based Waiting List</del>
<del>RAD Group II—Fulton Park</del>	<del>1) Fulton Park Right to Return Residents (if applicable) 2) LIPH Scattered Site Wait List 3) HCV Waiting List 4) Scattered Site RAD Site Based Waiting List</del>
<del>RAD Group II— Waverly Townhouses</del>	<del>1) Waverly Townhouses Right to Return Residents (if applicable) 2) LIPH Scattered Site Wait List Applicants on the HCV Waiting List as of the date of the issuance of the RCC 3) Waverly Townhouses RAD Site Based Waiting List</del>
<del>RAD Group II—76 Glen Haven</del>	<del>1) 76 Glen Haven Right to Return Residents (if applicable) 2) LIPH Scattered Site Wait List 3) HCV Waiting List 4) Scattered Site RAD Site Based Waiting List</del>
<del>RAD Group III— McQueeney Towers</del>	<del>1) McQueeney Towers Right to Return Residents (if applicable) 2) McQueeney Towers LIPH Wait List 3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del>

	<del>4) McQueeney Towers RAD Site Based Waiting List</del>
<del>RAD Group III– Winslow Celentano</del>	<del>1) Winslow Celentano Right to Return Residents (if applicable)</del> <del>2) Winslow Celentano LIPH Wait List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Winslow Celentano RAD Site Based Waiting List</del>
<del>RAD–Robert T Wolfe</del>	<del>1) Robert T. Wolfe Right to Return Residents (if applicable)</del> <del>2) Robert T. Wolfe LIPH Wait List</del> <del>3) HCV Waiting List</del> <del>4) Robert T Wolfe Site Based Waiting List</del>
<del>RAD Group IV– Matthew Ruoppolo Manor</del>	<del>1) Matthew Ruoppolo Manor Right to Return Residents (if applicable)</del> <del>2) Matthew Ruoppolo Manor LIPH Wait List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Matthew Ruoppolo Manor Site Based Waiting List</del>
<del>RAD Group IV– Fairmont Heights</del>	<del>1) Fairmont Heights Right to Return Residents (if applicable)</del> <del>2) Fairmont Heights LIPH Wait List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Fairmont Heights RAD Site Based Waiting List</del>
<del>RAD Valley Townhouses</del>	<del>1) Valley Townhouses Right to Return Residents (if applicable)</del> <del>2) Valley Townhouses LIPH Wait List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) Valley Townhouses RAD Site Based Waiting List</del>
<del>RAD McConaughy Terrace</del>	<del>1) McConaughy Terrace Right to Return Residents (if applicable)</del> <del>2) McConaughy Terrace LIPH Wait List</del> <del>3) Applicants on the HCV Waiting List as of the date of the issuance of the RCC</del> <del>4) McConaughy Terrace RAD Site Based Waiting List</del>

### Elderly Designated Unit Mix Prior to Conversion to Project-based Rental Assistance

Number of Bedrooms	0	1	2	3	4	5	6	Total
Prescott Bush	20	25	5	0	0	0	0	50
Katherine Harvey Terrace	0	12	0	0	0	0	0	12
New Hall Gardens	0	23	0	0	0	0	0	23
C.B. Motley	8	34	0	0	0	0	0	42
Wilmot Crossing	0	25	1	0	0	0	0	26
<b>Total</b>	<b>28</b>	<b>119</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>153</b>

The Owner may not establish a limit on the number of Elderly families or Disabled families who may be accepted for occupancy in a development that was Mixed Population development prior to conversion. In selecting Elderly families and Disabled families to occupy units in mixed population developments, the owner must first offer units that have special accessibility features for persons with disabilities to families who include persons with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of this Part 24 CFR).”

#### Waiting Lists for Converted Units

The Owner shall use the ECC/HANH site-based waiting for each development list used by it prior to conversion for the selection of occupants post-conversion, except for units that have special accessibility features for persons with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of Part 24 CFR).”

First priority: Subject to preference for families residing in the existing developments (right to return families) on the date of the financial plan approval.

Second priority: Interested applicants on the site-based waiting lists for the properties at the time of approval of the date of the financial plan approval, over all other applicants based on their position on the existing site-based waiting lists.

Third priority: At the time of the approval of the financial plan, applicants on the ECC Housing Choice Voucher Wait List shall also be contacted to determine if they are interested in being placed on the Development Waiting List. Applicants on the existing HCV Waitlist will be given third priority over all other applicants based on their position on this list.

Fourth priority: Applicants on the RAD site-based waiting.

Occupants of units with accessibility features shall be selected from (1) a current occupant of another unit of the same project, or comparable projects under common control, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then (2) to an eligible qualified applicant on the Agency wide Accessible Waiting List having a disability requiring the accessibility features of the vacant unit.

With respect to units where preference for occupancy shall be to the elderly or to the elderly and disabled on an equal basis, ECC/HANH shall transfer each site-based waiting list to the owner and the Owner shall manage each list in accordance with the ECC/HANH-approved resident selection plan. The Owner shall select occupants from these lists until all applicants on these lists have been either offered a unit, withdrawn or removed, or rejected for admission. The Owner shall maintain its site-based waiting list once these requirements have been met.

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

No changes to this section with the exception of LIHTC developments.

LIHTC developments are subject to the published LIHTC Income guidelines.

#### **Order of Selection**

No changes to this section.

### **4-III.D. NOTIFICATION OF SELECTION**

At the time of the approval of the financial plan, applicants on the ECC/HANH Housing Choice Voucher Wait List shall also be contacted to determine if they are interested in being placed on the Development Waiting List.

#### ECC/HANH Policy

ECC/HANH will notify the family by first class mail, or email if applicable when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

- Who is required to attend the interview

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

- Documents that must be provided at the interview to document eligibility for a preference, if applicable

- Other documents and information that should be brought to the interview

If a notification letter is returned with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

Applicants who fail to attend their scheduled interview or who cannot be contacted to schedule an interview will be scheduled for a second interview. Applicants who cannot be contacted after a second attempt or who fail to show for a second interview shall have their applications withdrawn, subject to reasonable accommodation for people with disabilities.

#### **4-III.E. THE APPLICATION INTERVIEW**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual requires an applicant interview. The applicant interview must include an interview with all adult household members to review the application and historical documents and clarify any discrepancies or missing information. The interview must be documented with the required Interview Checklist included in the State of Connecticut's LIHTC Tax Credit compliance manual for the state of Connecticut. This checklist must be signed and dated by management and all adult applicants.

#### **4-III.F. COMPLETING THE APPLICATION PROCESS**

No changes to this section

### **PART IV. VAWA APPLICANT WAITLIST & TRANSFER WAITLIST PREFERENCE**

#### **4-IV.A OVERVIEW**

No changes to this section

Addition:

Resident transfer is allowable from one LIHTC/RAD/PBV development to another subject to applicable LIHTC income guidelines.

This includes the LIPH/ACC units.

#### **4-IV.B. PREFERENCE QUALIFICATIONS**

No changes to this section

#### **4-IV.C TRANSFERS FOR CURRENT ECC RESIDENTS APPROVED FOR VAWA PROTECTIONS TO ANOTHER ECC/HANH OWNED SITE**

No changes to this section

### **PART V: RESIDENT TRANSFER POLICY**

#### **4-V.A. OVERVIEW**

This section explains the transfer policy, based on HUD regulations, HUD guidance, and ECC/HANH policy decisions.

This section describes HUD regulations and ECC/HANH policies related to transfers in three parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: ECC/HANH Required Transfers. This part describes types of transfers that may be required by ECC/HANH, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

ECC/HANH may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation or protection under VAWA.

ECC/HANH must have specific policies in place to deal with acceptable transfer requests.

Preferences for Resident Transfers are as follows: (Applies to LIHTC ACC, PBV and RAD/PBV).

- 1) Emergency
- 2) Urgent- Non-VAWA Crime and Safety related transfers

- 3) Reasonable Accommodation for Accessible Units
- 4) Reasonable Accommodation for other than those needing accessible units or units with accessible features
- 5) Transfers mandated by modernization projects
- 6) VAWA transfers
- 7) Transfers due to over and under housing by more than two degrees
- 8) Other administrative transfers

**Transfers from one LIHTC ACC, PBV or RAD/PBV development to another LIHTC ACC, PBV, RAD/PBV or LIPH development are allowable for all preferences, subject to LIHTC income guidelines and applicable Tenant Selection Plans.**

The transfer list is an agency-wide transfer list and not a site-based list. One out of every ten offers will be made to a resident-requested transfer.

Per the development Resident Selection Plan, a resident who resides in a development and requires a different unit size or type will have a priority over other households on the Site based Waitlist for the unit that has become vacant in that Development.

#### **4-V.B EMERGENCY TRANSFERS**

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, ECC/HANH must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

##### ECC/HANH Policy

Emergency transfers must be approved by the Owner or designee.

The Owner is not required to give prior notice of an emergency transfer.

Emergency conditions that occur due to abuse or neglect will be grounds for emergency transfer, however resident will be charged for the damages caused to the apartment.

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours.
- Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

#### **4-V.C. EMERGENCY TRANSFER PROCEDURES**

##### ECC/HANH Policy

If the transfer is necessary because of maintenance or other life-threatening conditions defined above, and an appropriate unit is not immediately available, Owner will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, Owner will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant. Refusal of a resident to accept an emergency transfer is grounds for termination of assistance or lease termination and eviction.

In cases where ECC/HANH does not have a unit available for an emergency transfer ECC/HANH can transfer the resident to one of its affiliated entities.

Emergency transfers from one LIHTC/RAD/PBV/LIPH development are allowable for Emergencies that cannot be immediately mediated and are subject to applicable LIHTC income guidelines. Emergency transfers will be placed on a centralized transfer list for LIHTC/RAD/PBV/LIPH residents.

#### **4-V.D. COSTS OF TRANSFER**

##### ECC/HANH Policy

Owner will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

Owner will move the family at Owner's expense.

All amounts owed under tenancy will follow the family regardless of transfer.

#### **4-V.E. TYPES OF ECC/HANH REQUIRED TRANSFERS**

ECC/HANH may require that a resident transfer to another unit under some circumstances. For example, ECC/HANH may require a resident to transfer to make an accessible unit available to a disabled family, or may transfer a resident in order to maintain occupancy standards based on family composition, or may transfer residents in order to demolish or renovate the unit.

**A transfer that is required by ECC/HANH is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].**

The types of transfers that may be required by the Owner, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the Owner are mandatory for the tenant.

## **Transfers to Make an Accessible Unit Available**

When a family is given an accessible unit, but does not require the accessible features, ECC/HANH may require the family to agree to move to a non-accessible unit when it becomes available.

### ECC/HANH Policy

When a non-accessible unit becomes available, Owner will transfer a family living in an accessible unit that does not require the accessible features to an available unit that is not accessible. Owner may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the unit. The Property Manager will give the family a 30-day notice to move, with the right to request a grievance hearing and a reasonable accommodation to remain in the unit if applicable.

## **Occupancy Standards Transfers**

ECC/HANH may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to ECC/HANH policy. On some occasions, ECC/HANH may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition

### ECC/HANH Policy

Owner will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

*Overcrowded:* the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the sleeping room. For example, 5 persons could occupy a two-bedroom unit if the family wishes.

*Over-housed:* the family no longer qualifies for the bedroom size in which they are living based on ECC/HANH's occupancy standards as described in Section 5-I.B.

Owner may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on Owner's occupancy standards, when Owner determines there is a need for the transfer.

Owner may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by Owner that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) will only be required to transfer if it is necessary to comply with the approved exception.

Scattered site in-house transfers supersede scattered site wait list applicants.

## **Demolition, Disposition, Revitalizations, or Rehabilitation Transfers**

### ECC/HANH Policy

Owner will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. ECC/HANH's relocation plan may or may not require transferring affected families to other available public housing units. These transfers may be subject to Uniformed Relocation Act (URA) Guidelines.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

### **4V.F. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

An ECC/HANH required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, ECC/HANH may not act on the transfer until the conclusion of the grievance process.

## **PART VI: TRANSFERS REQUESTED BY TENANTS**

### **4-VI.A. OVERVIEW**

HUD provides ECC/HANH with discretion to consider transfer requests from tenants. The only requests that ECC/HANH is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of ECC/HANH. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by ECC/HANH.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

### **4-VI.B. TYPES OF RESIDENT REQUESTED TRANSFERS**

#### ECC/HANH Policy

The types of requests for transfers that the Owner will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the Owner's occupancy standards, and transfers to a location closer to employment.

#### 4-VI.C. HIGH PRIORITY RESIDENT REQUESTED TRANSFERS

##### ECC/HANH Policy

The Owner will consider the following as high priority transfer requests with an applicable preference:

- Reasonable Accommodation –  
When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature  
  
When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features
- VAWA –  
To qualify for the VAWA preference, the incident must have taken place no more than 90 calendar days prior to date of the Owner's receipt of transfer request and verified with the Reasonable Accommodation Manager through the VAWA process.
- Urgent –  
When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the Owner's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may also be established through documentation or by any proof accepted by the Owner.  
  
In the event of an urgent transfer, involving violence or criminal activity against a family, the family will be placed on the transfer list with Crime and Safety preference and moved to an appropriately sized unit accordingly.

Such circumstances will include:

- Targeted violence- a family member is the actual or potential victim of a criminal attack, retaliation for testimony or hate crime and the threat of violence is verified by a law enforcement professional and/or agency.
- Inadvertent violence- to protect a family member from criminal activity that is occurring at the property of the community in which they are not the targeted victim but request to be transferred for their safety and the threat of violence is verified by a law enforcement professional or agency.

#### **4-VI.D. REGULAR PRIORITY RESIDENT-REQUESTED TRANSFERS**

##### ECC/HANH Policy

Existing elderly families shall be given preference to elderly-designated properties.

Other than the above, the regular priority resident requested transfer list is maintained in a first-come, first-served basis.

Transfers requested by the tenant are considered optional for the tenant.

#### **4-VI.E. ELIGIBILITY FOR TRANSFER**

##### ECC/HANH Policy

Except for emergency transfers or for purposes of reasonable accommodation, Owner will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety or residents and staff

- Owe no back rent or other charges, or have a pattern of late payment

- Have no housekeeping lease violations or history of damaging property

- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the Owner's advantage to make the transfer. Exceptions may also be made when ECC/HANH determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of one year from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

#### **4-VI.F. SECURITY DEPOSITS**

##### ECC/HANH Policy

When a family transfers from one unit to another, the Owner will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

#### **4-VI.G. TRANSFER**

ECC/HANH must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

#### ECC/HANH Policy

The resident will bear all of the costs of transfer s/he requests. However, Owner will bear the transfer costs when the transfer is done as a reasonable accommodation.

### **4-VI.H. HANDLING OF REQUESTS**

#### ECC/HANH Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, the Owner will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Owner will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The Owner will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, or stalking or taking no action when sufficient information to make a determination is not provided.

If the family does not meet the “good record” requirements, the manager will address the problem and, until resolved, the request for transfer will be denied.

The Owner will respond within 10 business days of the submission of the family’s request. If Owner denies the request for transfer, the family will be informed of its grievance rights.

### **4-VI.I. COST OF TRANSFER**

ECC/HANH must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2010-26].

#### ECC/HANH Policy

The resident will bear all of the costs of transfer s/he requests. However, the Owner will bear the transfer costs when the transfer is done as a reasonable accommodation.

### **4-VI.J. HANDLING OF REQUESTS**

#### ECC/HANH Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, the Owner will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Owner will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The Owner will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the

family, such as documentation of domestic violence, dating violence, sexual assault, or stalking.

If the family does not meet the “good record” requirements, the manager will address the problem and, until resolved, the request for transfer will be denied.

The Owner will acknowledge the receipt of the transfer request within 10 business days. If ECC/HANH denies the request for transfer, the family will be informed of its grievance rights. Reasonable Accommodation requests will be verified by a 3<sup>rd</sup> party professional and ECC/HANH will respond within 10 business days of the approval of the reasonable accommodation request.

#### **4-VLK REFUSAL FOR GOOD CAUSE**

##### ECC/HANH Policy

Examples of good cause for refusal of a unit offer include, but are not limited to:

- The family demonstrates to ECC/HANH’s satisfaction that accepting the unit offer will require an adult family member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to ECC/HANH’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal family member.
- The unit is inappropriate for the applicant’s disabilities or approved reasonable accommodation, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.
- Other compelling reasons as approved by ECC/HANH.

ECC/HANH will require documentation of good cause for unit refusals.

## **PART 4-VII: EFFORT TO END HOMELESSNESS**

### **HOMELESS PREFERENCE/WAITING LIST SET-ASIDES**

ECC/HANH is adding a homeless admissions preference/set-aside for applicants for the project-based and tenant-based Effort to End Homelessness Initiatives.

This preference/set-aside applies to families or individuals who are:

- (1) homeless;
- (2) at risk of homelessness;
- (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or
- (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

The HUD definition of Homeless is listed in 4 categories:

#### **Category 1**

##### **Literally homeless individuals/families**

Individuals and families who lack a fixed, regular, and adequate nighttime residence, which includes one of the following:

- Place not meant for human habitation
- Living in a shelter (Emergency shelter, hotel/motel paid by government or charitable organization)
- Exiting an institution (where they resided for 90 days or less AND were residing in emergency shelter or place not meant for human habitation immediately before entering institution)

#### **Category 2**

**Individuals/families who will imminently (within 14 days) lose their primary nighttime residence, which includes ALL of the following:**

- Have no subsequent residence identified AND
- Lack the resources or support networks needed to obtain other permanent housing

#### **Category 3**

**Unaccompanied youth (under 25 years of age) or families with children/youth who meet the homeless definition under another federal statute and includes ALL of the following:**

- Have not had lease, ownership interest, or occupancy agreement in permanent housing at any time during last 60 days

- Have experienced two or more moves during last 60 days
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, OR chronic physical health or mental health conditions, OR substance addiction, OR histories of domestic violence or childhood abuse (including neglect) OR presence of a child or youth with a disability, OR two or more barriers to employment

#### Category 4

**Individuals/families fleeing or attempting to flee domestic violence, dating violence, violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or family member and includes ALL of the following:**

- have no identified residence, resources or support networks
- Lack the resources and support networks needed to obtain other permanent housing

Source: [http://www.hudhre.info/documents/HEARTH\\_HomelessDefinition\\_FinalRule](http://www.hudhre.info/documents/HEARTH_HomelessDefinition_FinalRule)

#### ECC/HANH Policy

ECC/HANH has established a homeless preference and set-aside waiting lists for individuals and families that meet the HUD definition of homelessness.

There will be a set-aside waiting lists for families and individuals who will be housed in the PBV and TBV supportive housing programs and set-aside waiting lists for families and individuals who will be housed in the -Effort to End Homelessness Initiatives.

The homeless preference will also apply to applicants to the ECC/HANH PBV and RAD/PBV developments.

Current applicants on the HCV waiting list will be notified of the new admissions preference/set-aside waiting lists and will be instructed on the necessary procedure to qualify. They will need to contact the Coordinated Access Network (CAN) for an assessment and referral to ECC/HANH.

They will be granted a first right to an available unit under the preference should they meet the above definition of homeless.

Notice to persons on the HCV waiting list will be done by mail no later than thirty (30) days prior to the effective date of the preference. This preference will be effective November 1, 2022.

In order to be eligible for the preference, an applicant must be a direct referral from the Coordinated Access Network (CAN).

ECC/HANH must have a Memorandum of Understanding (MOU) with the CAN for vouchers under the ECC/HANH MTW Homeless Voucher initiative. ECC/HANH must have a MOU with the CAN specific to the homeless preference.

The CAN will conduct an applicant assessment through their Coordinated Entry system and will send the referral to ECC/HANH.

Once the referral has been received, the applicant will be placed on the Homeless Preference/Set-Aside Waiting List.

The referral must include a commitment by the homeless service provider to supportive services to help the household transition from homelessness to permanent housing, including tenant selection, eligibility and lease requirements.

When a unit becomes vacant in a PBV or RAD/PBV development the applicant who meets the criteria of the admissions preference and who is on the existing waiting list will be selected for eligibility determination and unit offer.

When tenant-based vouchers are offered, the applicant who meets the criteria of the admissions preference and who is on the existing waiting list will be selected first for eligibility determination and a voucher offer.

All applicants must comply with current admissions requirements at the specific property, including income and background screening criteria.

Applicants must also comply with the ECC eligibility and background screening criteria as stated in Chapter 3 (Eligibility) of this Admin Plan.

Applicants who do not pass the eligibility criteria will be provided with the basis of the intent to deny or denial in writing and will be notified of their right to request a meeting to review the information or right to request an informal hearing. (Chapter 16, Informal Reviews and Hearings.)

If the intent to deny review or informal review meeting is favorable to the applicant, the applicant will be returned to the waiting list with the homeless preference and offered the next available unit or voucher.

**Note:** This preference can be amended as needed and/or removed with proper notification of such to all affected parties, including written notification to HUD.

ECC/HANH has also allocated vouchers to supportive housing providers and the CAN in an effort to end homelessness.

Applicants are assessed by the supportive housing provider, prioritized and referred to ECC/HANH accordingly.

The applicant is placed on the appropriate provider set aside waiting list. When a unit or allocated voucher becomes available the applicant is notified by ECC/HANH for an eligibility appointment.

Applicants must also comply with the ECC eligibility and background screening criteria as stated in Chapter 3 (Eligibility) of this Admin Plan, unless specifically stated in the MOU.

Applicants who do not pass the eligibility criteria will be provided with the basis of the intent to deny or denial in writing and will be notified of their right to request a meeting

to review the information or right to request an informal hearing. (Chapter 16, Informal Reviews and Hearings.)

If the intent to deny review or informal review meeting is favorable to the applicant, the applicant will be returned to the waiting list with the homeless preference and offered the next available unit or voucher.

**Chapter 19**  
**SECTION V**  
**BRIEFINGS AND VOUCHER ISSUANCE**

**INTRODUCTION**

For the standard and RAD PBV programs:

Like in the HCV program, families who are to receive assistance in a PBV unit must be briefed by ECC/HANH; however, the required briefing topics and materials differ for PBV assistance.

Regulations pertaining to voucher issuance do not apply to the PBV program since families are not issued vouchers for project-based assistance.

This chapter does not apply to the LIHTC program.

**PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

**5-I.A. OVERVIEW**

For the standard and RAD PBV programs, this section is amended to read:

HUD regulations require ECC/HANH to conduct mandatory briefings for applicant families who qualify for assistance in a PBV unit. The briefing provides a broad description of owner and family responsibilities and ECC/HANH's procedures. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

**5-I.B. BRIEFING [24 CFR 982.301] [24 CFR 983.252]**

**No changes to this section, with the exception that ECC/HANH includes staff for the particular PBV/RAD development.**

**Notification and Attendance**

**No changes to this section, with the following exception:**

**“If the applicant family wishes to add or remove a member(s) at the time of the initial briefing, the family will be referred Development staff”.**

**Oral Briefing (24 CFR 983.252(a))**

For standard and RAD PBV units only the first two bullets apply:

- A description of how the program works; and
- Family and owner responsibilities

## **Briefing Packet [24 CFR 983.252(b)]**

For standard and RAD PBV units, the regulations only require that the following items must be included in the briefing packet:

- How the ECC/HANH determines the total tenant payment for a family;
- Family obligations under the program; and
- Applicable fair housing information

### **5-I.C. FAMILY OBLIGATIONS**

#### **Time Frames for Reporting Changes Required By Family Obligations**

No changes to this section.

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

For the standard and RAD PBV programs, this section is amended to read:

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the PBV Statement of Family Responsibility. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. ECC/HANH must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When an offer of PBV assistance is made, the family must meet those obligations in order to participate in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

## **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

### **5-II.A. OVERVIEW**

For the standard and RAD PBV programs, this section is amended to read:

While ECC/HANH must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions for the regular HCV program, subsidy standards are not used to determine maximum subsidy in PBV units. Rather, subsidy standards in the PBV program are only used to determine the appropriate unit size for the family. This part presents the policies that will be used to determine the family unit size, and the policies that govern making exceptions to those standards.

### **5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402] [24 CFR 983.253(b)]**

For the standard and RAD PBV programs, this section is amended to read:

This section applies except that family size is not entered on the family's voucher since there is no voucher in PBV. Provisions relating to maximum subsidy based on family size and family's ability to lease a larger or smaller unit than their voucher size do not

apply. The contract unit leased to the family must be appropriate for the size of the family based on ECC/HANH's subsidy standards.

#### **5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS**

No changes to this section.

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

This section does not apply to the standard or RAD PBV programs.

#### **5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS**

This section does not apply to the standard or RAD PBV programs.

## Chapter 19

### SECTION VI

#### INCOME AND SUBSIDY DETERMINATIONS

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

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and ECC/HANH'S subsidy. ECC/HANH will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations.

##### **Addition:**

For LIHTC/PBV and RAD/PBV, rent redetermination will be completed annually in compliance with LIHTC guidelines.

#### PART I: ANNUAL INCOME

##### 6-I.A. OVERVIEW

No changes to this section:

##### 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

No changes to this section, with the following exception:

Full-time students 18 years of age or older (not head, spouse, or co-head) All employment income is excluded, except \$480 [24 CFR 5.609(c)(11)].

##### **Temporarily Absent Family Members**

No changes to this section

##### *Absent Students*

No changes to this section

##### *Absences Due to Placement in Foster Care*

No changes to this section

##### *Absent Head, Spouse, or Co-head*

No changes to this section

### **Family Members Permanently Confined for Medical Reasons**

No changes to this section

### **Joint Custody of Dependents**

No changes to this section

### **Caretakers for a Child**

No changes to this section

## **6-I.C. ANTICIPATING ANNUAL INCOME**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC file should instead follow the HUD Handbook 4350.3, REV-1, Chapter 5 as the reference guide to be used for identifying income to be included or excluded when determining annual household income. Additionally, guidance in the Tax Credit Compliance Manual for the state of Connecticut must be considered.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

For LIHTC files, the policies in this section of the administrative plan do not apply. The LIHTC program follows HUD Handbook 4350.3 REV-1 as the reference guide to be used for identifying income to be included or excluded when determining annual household income. Additionally, guidance in the Tax Credit Compliance Manual for the state of Connecticut must be considered. Generally, the most conservative calculation of anticipated household income should be made to ensure that there is no doubt that a family is income eligible. If a lesser number is warranted, a detailed explanation written in the LIHTC file is encouraged.

For example: A written third-party employment verification that states an individual works between 15 and 25 hours per week. In the LIHTC program, 25 hours would generally be used to annualize income, which would be the most conservative approach. Further, interim recertifications for changes in household income may not be conducted in the LIHTC program. All income for the entire year must be accounted for at the time of the initial certification or annual recertification.

HUD's Enterprise Income Verification (EIV) system and all associated reports may never be present in the LIHTC file. EIV Income Reports may never be used to verify income in the LIHTC program.

## 6-I.D. EARNED INCOME

### **Types of Earned Income Included in Annual Income**

#### ***Wages, including military pay and Related Compensation***

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC file should follow HUD Handbook 4350.3 REV-1 as the reference guide to be used for identifying income to be included or excluded when determining annual household income. Additionally, guidance in the Tax Credit Compliance Manual for the state of Connecticut must be considered. Generally, the most conservative calculation of anticipated household income should be made to ensure that there is no doubt that a family is income eligible. If a lesser number is warranted, a detailed explanation written in the LIHTC file is encouraged.

All regular pay, special pay and allowances of a member of the Armed Forces, with the exception of hostile fire pay, are included in income. Military basic housing allowances are generally included as income, however, there is an exception if the building is located in any county, or adjacent county, in which a qualified military installation is located. Qualified bases are listed in IRS Notice 2008-79.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

**Temporary Income:** Temporary income is generally considered excluded income.

**Sporadic or Zero Income:** The IRS states that "the best way to determine whether a prospective tenant is income-qualified is to conduct a detailed interview with the tenant. An interview can be used to follow up on information disclosed on the application, surface information that would not otherwise be known, and help the property manager make an informed decision." A tenant does not need to have income every month, but each month should be accounted for with either an anticipated amount of income, or an explanation of why no income is anticipated and how that month's expenses will be covered. A prior year's tax return and/or paycheck stubs should be used to provide support for the anticipated income amount. Households with zero income must complete the Unemployed or Zero Income Statement (TC-100F) found in the state of Connecticut's LIHTC compliance manual for the LIHTC file.

#### ***Children's Earnings***

No changes to this section.

#### ***Income of a Live-in Aide***

No changes to this section.

#### ***Income Earned under Certain Federal Programs***

No changes to this section.

***Federal, State and Local Employment Training Programs – may be PARTIALLY or fully excluded. Therefore, report and exclude***

No changes to this section.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program, the following should be added:

**Self-Employed Individuals:** A tax return must be filed for all self-employed individuals who will reside in a LIHTC unit who operate sole-proprietorship businesses or otherwise report income on Schedule C, regardless of whether the taxpayer is reporting a profit or a loss. If the person is not eligible to get an SSN, which is needed to file a tax return, an individual taxpayer identification number (ITIN) can be obtained using IRS Form W-7.

Include the net income from a business, including self-employment. Net income is gross income less allowable business expenses, interest on loans, and straight-line depreciation. The owner should include any salaries or assets withdrawn from the business, unless the withdrawal is a reimbursement.

If a tenant is using a portion of their LIHTC unit to provide daycare services, the tenant must have applied for (and not have been rejected), be granted (and still have in effect), or be exempt from having a license, certification, registration, or approval as a daycare facility or home under state law. See IRS Form 8829, Expense for Business Use of Your Home and Publication 587, Business Use of Your Home for more information.

#### **Business Expenses**

No changes to this section.

#### **Business Expansion**

No changes to this section.

#### **Capital Indebtedness**

No changes to this section.

#### **Negative Business Income**

No changes to this section.

#### **Withdrawal of Cash or Assets from a Business**

No changes to this section.

#### **Co-owned Businesses**

No changes to this section.

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

### **Overview**

No changes to this section.

### **General Policies**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The owner/agent must verify all known income and assets that affect eligibility. However, if the total assets for a household are \$5,000 or less, the applicants may satisfy the asset requirement by signing a statement attesting to such fact.

### ***Income from Assets***

No changes to this section.

### ***Valuing Assets***

No changes to this section.

### ***Lump-Sum Receipts***

No changes to this section.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow the HUD Handbook 4350.3 REV-1, Chapter 5 for Calculating Income from Assets for the LIHTC program. The owner/agent will not include income from assets unless the total market value of all assets for the family equals **\$5,000 or more**. The owner/agent will then include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income.

The passbook rate is .06% for the LIHTC program.

### ***Determining Actual Anticipated Income from Assets***

No changes to this section.

### ***Withdrawal of Cash or Liquidation of Investments***

No changes to this section.

### ***Jointly Owned Assets***

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow the HUD Handbook 4350.3 REV-1, Chapter 5 for Calculating Income from Assets for the LIHTC program. If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.

If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

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

No changes to this section.

***Minimum Threshold***

No changes to this section.

***Separation or Divorce***

No changes to this section.

***Foreclosure or Bankruptcy***

No changes to this section.

***Family Declaration***

No changes to this section.

**Types of Assets**

***Checking and Savings Accounts***

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow the HUD Handbook 4350.3 REV-1, Chapter 5 for Types of Assets for the LIHTC file. For families with a total market value of assets of less than \$5,000, an *Under \$5,000 Asset Form* found in the state of Connecticut's LIHTC compliance manual may be used.

For the LIHTC file, in determining the value of a checking account, the owner/agent will use average 6-month balance.

In determining the value of a savings account, the owner/agent will use the current balance.

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

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

No changes to this section.

***Equity in Real Property or Other Capital Investments***

No changes to this section.

***Trusts***

No changes to this section.

***Retirement Accounts***

***Company Retirement/Pension Accounts***

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow the HUD Handbook 4350.3 REV-1, Chapter 5 for Types of Assets for the LIHTC file. Unlike in the PBV program, the owner/agent does not consider whether or not the periodic payment from the asset is a reimbursement of the family's investment. Periodic payments from retirement/pensions accounts are counted as income once the family member retires.

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate. The balance in the account is counted as an asset only if it remains accessible to the family member.

***IRA, Keogh, and Similar Retirement Savings Accounts***

No changes to this section.

***Personal Property***

No changes to this section.

***Life Insurance***

No changes to this section.

## **6-I.H. PERIODIC PAYMENTS**

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

### **Periodic Payments Included in Annual Income**

No changes to this section.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

While the regulation applies, since rents in the LIHTC program are not income-based, ECC/HANH policy on adjusting tenant rent does not apply to the LIHTC file.

### **Treatment of Overpayment Deductions from Social Security Benefits**

No changes to this section.

### **Periodic Payments Excluded from Annual Income**

No changes to this section for the standard or RAD PBV programs.

The LIHTC file should follow this section as written with the exception of payment received for the care of foster children or foster adults. In the LIHTC program only, include the unearned income of foster children and all income of foster adults. Exclude the earned income of foster children.

## **6-I.I. PAYMENTS IN LIEU OF EARNINGS**

No changes to this section.

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

No changes to this section.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The full amount of welfare benefits received by the family are included as income. This section does not apply. Imputed welfare income is not considered in the LIHTC program.

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

### **Alimony and Child Support**

No changes to this section.

### **Regular Contributions or Gifts**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow the HUD Handbook 4350.3 REV-1, Chapter 5. The policy is amended to read:

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as clothing provided to a family on a regular basis. Groceries provided directly by persons not living in the unit are excluded from annual income.

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

## **6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) and FR 5/20/14]**

### **Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]**

No changes to this section.

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

No changes to this section.

## **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

No changes to this section for the standard or RAD PBV programs.

Everything in this section applies to the LIHTC program with the exception of adoption assistance payments. The LIHTC program follows the regulation, not ECC/HANH policy for the PBV program. For the LIHTC file, the owner/agent should exclude amounts that exceed \$480 from adoption assistance payments.

An additional exclusion for the LIHTC program should also be added:

- Federal Government/Uniformed Services pension funds paid directly to an applicant/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are excluded. See HUD Handbook 4350.3 REV-1, Chapter 5 for additional information.

## **PART II: MONTHLY INCOME TIERED RENT AND TOTAL TENANT PAYMENT**

### **6-II.A. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

No changes to this section for the standard or RAD PBV programs.

This part does not apply to the LIHTC program.

#### **Anticipating Expenses**

No changes to this section

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

No changes to this section

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

No changes to this section for the standard or RAD PBV programs.

This part does not apply to the LIHTC program.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

No changes to this section

#### **Eligible Disability Expenses**

No changes to this section

##### ***Eligible Auxiliary Apparatus***

No changes to this section

##### ***Eligible Attendant Care***

No changes to this section

##### ***Payments to Family Members***

No changes to this section

#### **Necessary and Reasonable Expenses**

No changes to this section

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

No changes to this section

### **6-II.C. CHILD CARE EXPENSE DEDUCTION**

No changes to this section

#### **Clarifying the Meaning of *Child* for This Deduction**

No changes to this section

## **Qualifying for the Deduction**

### ***Determining Who Is Enabled to Pursue an Eligible Activity***

No changes to this section

### ***Seeking Work***

No changes to this section

### ***Furthering Education***

No changes to this section

### ***Being Gainfully Employed***

No changes to this section

## **Earned Income Limit on Child Care Expense Deduction**

No changes to this section

## **Eligible Child Care Expenses**

No changes to this section

## **PART III: CALCULATING FAMILY SHARE AND ECC/HANH SUBSIDY**

Only specified parts of Part III apply to the standard and RAD PBV programs as indicated below.

This part does not apply to the LIHTC program.

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

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

This section does not apply to either the standard or RAD PBV programs or the LIHTC programs.

ECC will use TAC credit calculation to determine income at new admission to the program

#### **ECC/HANH Subsidy [24 CFR 982.505(b)]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC programs.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-IX.C. Tenant Rent to Owner** for standard and RAD PBV requirements.

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

This section does not apply to either the standard or RAD PBV programs or the LIHTC programs.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-IX.C. Tenant Rent to Owner** for standard and RAD PBV requirements regarding utility reimbursement payments.

### **6-III.B. APPLYING PAYMENT STANDARDS [24 CFR 982.505]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC programs.

### **6-III.C. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

#### **Overview**

This section does not apply to either the standard or RAD PBV programs or the LIHTC programs.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VIII.B. Rent Limits, Use of FMRs, Exception Payment Standards, and Utility Allowances** for standard and RAD PBV requirements.

#### **Reasonable Accommodation**

No changes to this section.

#### **Utility Allowance Revisions**

No changes to this section.

### **6-III.D. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

No changes to this section for the standard or RAD PBV programs.

### **6-III.E. PHASE IN OF INCREASE IN TOTAL TENANT PAYMENT FOR RAD PROJECTS**

Year 1: Any recertification (interim or annual) performed prior to the second -annual recertification after conversion – 20 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 2: Year 2 annual recertification and any interim recertification prior to year 3 annual recertification – 25 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 3: Year 3 annual recertification and any interim recertification prior to year 4 annual recertification – 33 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 4: Year 4 annual recertification and any interim recertification prior to year 5 annual recertification – 50percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 5: Year 5 annual recertification and all subsequent recertifications – Full Calculated PBV TTP.

This section does not apply to the LIHTC program.

## **Chapter 19**

### **SECTION VII**

#### **VERIFICATION**

24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19, HUD Handbook 4350.3 REV-1, 8823 Guide, State of Connecticut's LIHTC compliance manual]

#### **INTRODUCTION**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program, this section is amended to read:

The owner/agent must verify all information that is used to establish the family's eligibility and is required to obtain written authorization from the family in order to collect the information. Applicants and residents must cooperate with the verification process. In blended LIHTC/PBV units, the owner/agent must not pass on the cost of verification to the family.

The owner/agent will follow the verification guidance provided by HUD Handbook 4350.3, REV-1, Chapter 5; The Guide for Completing Form 8823; and the State of Connecticut's LIHTC compliance manual.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV does not apply to the LIHTC program.

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 ECC/HANH.

#### **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]**

###### **Consent Forms**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

The state of Connecticut's LIHTC Compliance Manual requires that an authorization of release of information accompany verification requests.

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

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

There is no penalty in the LIHTC program for failure to complete a consent form. There is no required informal review or hearing in the LIHTC program either.

## **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **HUD's Verification Hierarchy [Notice PIH 2010-19]**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

The LIHTC program does not follow HUD's Verification Hierarchy. HUD's Enterprise Income Verification (EIV) System may never be used. EIV reports may never be a part of the LIHTC file.

### **Requirements for Acceptable Documents**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC Compliance Manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

### **Verification of Family Income of less than \$5,000**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual and IRS Code require that all income be verified regardless of the amount.

### **File Documentation**

Everything in this section applies to both the standard and RAD PBV programs and LIHTC program, with the exception of verification of deductions since these are not calculated in the LIHTC program.

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

No changes to this section.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

The LIHTC program does not follow HUD's Verification Hierarchy. HUD's Enterprise Income Verification (EIV) System may never be used. EIV reports may never be a part of the LIHTC file.

### **Upfront Income Verification Using Non-HUD Systems (Optional)**

No changes to this section for the standard or RAD PBV programs.

With the exception of HUD's EIV system, using non-HUD UIV systems is acceptable for the LIHTC file.

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

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

### **Written Third-Party Verification Form**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC Compliance Manual provides mandatory written third-party verification forms for certain types of income.

The form should be mailed or faxed to the source and never hand-carried. The following forms are required for tenant certification:

- Tenant Application
- Interview Checklist
- Tenant Income Certification
- Unemployed or Zero Income Statement
- Re-certification Update
- Certification Worksheet
- Student Verification
- Lease Addendum (Mixed-Use or 100%)
- Employment Verification
- Under \$5,000 Asset Certification or Asset Income Verification (Third Party)
- Self-Certification (for 100% properties)

All required forms are available in the state of Connecticut's LIHTC Compliance Manual, Chapter 6.

### **Oral Third-Party Verification [Notice PIH 2010-19]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut LIHTC compliance manual states that ECC/HANH should pursue phone verification to clarify any missing or ambiguous information on the initial application or recertification form.

### **When Third-Party Verification is Not Required [Notice PIH 2010-19]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Verification of all income and assets is required in the LIHTC program following the state of Connecticut's requirements identified in the LIHTC Compliance Manual. The only exception is that self-certification is acceptable in 100% LIHTC properties when an annual recertification is being conducted.

## **7-I.E. SELF-CERTIFICATION**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Self-certification is acceptable in 100% LIHTC properties when an annual recertification is being conducted.

## **PART II: VERIFYING FAMILY INFORMATION**

### **7-II.A. VERIFICATION OF LEGAL IDENTITY**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither the IRS Code nor the state of Connecticut requires verification of legal identity. This section does not apply to the LIHTC program.

### **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2012-10]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither the IRS Code nor the state of Connecticut's LIHTC compliance manual requires proof of or verification of social security numbers. This section does not apply to the LIHTC program.

## **7-II.C. DOCUMENTATION OF AGE**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither the IRS Code nor the state of Connecticut's LIHTC compliance manual requires documentation of age. This section does not apply to the LIHTC program.

## **7-II.D. FAMILY RELATIONSHIPS**

No changes to this section.

### **Marriage**

No changes to this section.

### **Separation or Divorce**

No changes to this section.

### **Absence of Adult Member**

No changes to this section.

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

No changes to this section.

### **Guardianship of Minor Children**

No changes to this section.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Follow guidance located at **3-II.G of Chapter 19**. Student status is verified using the Student Verification in the state of Connecticut's LIHTC Compliance Manual.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

No changes to this section for the standard or RAD PBV programs.

### ***Independent Student***

No changes to this section for the standard or RAD PBV programs.

## **7-II.F. DOCUMENTATION OF DISABILITY**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC program does not consider deductions from gross income. Therefore, verification that a person meets the HUD/Social Security definition of disability is not necessary in the tax credit program. A different definition of disability is used for

reasonable accommodation requests. Verification of SSA disability benefits must follow the state of Connecticut's LIHTC compliance manual.

#### **Family Members Receiving SSA Disability Benefits**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program

#### **Family Members Not Receiving SSA Disability Benefits**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **7-II.H. VERIFICATION OF PREFERENCE STATUS**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

## **PART III: VERIFYING INCOME AND ASSETS**

### **7-III.A. EARNED INCOME**

#### **Tips**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Tips are verified using the Employment Verification form (TC-100D) in the state of Connecticut's LIHTC compliance manual, Chapter 6.

#### **Wages**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone

is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

The owner/agent is required to verify employment income using the Employment Verification form (TC-100D) in the state of Connecticut's LIHTC compliance manual, Chapter 6.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

A tax return must be filed for all self-employed individuals who will reside in a LIHTC unit who operate sole-proprietorship businesses or otherwise report income on Schedule C, regardless of whether the taxpayer is reporting a profit or a loss. If the person is not eligible to get an SSN, which is needed to file a tax return, an individual taxpayer identification number (ITIN) can be obtained using IRS Form W-7.

Include the net income from a business, including self-employment. Net income is gross income less allowable business expenses, interest on loans, and straight-line depreciation. The owner should include any salaries or assets withdrawn from the business, unless the withdrawal is a reimbursement.

If a tenant is using a portion of their LIHTC unit to provide daycare services, the tenant must have applied for (and not have been rejected), be granted (and still have in effect), or be exempt from having a license, certification, registration, or approval as a daycare facility or home under state law. See IRS Form 8829, Expense for Business Use of Your Home and Publication 587, Business Use of Your Home for more information.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

#### **Social Security/SSI Benefits**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

#### **7-III.D. ALIMONY OR CHILD SUPPORT**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

#### **7-III.E. ASSETS AND INCOME FROM ASSETS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The market value, cash value, and anticipated income for all assets, regardless of the amount, must be verified using third party documentation methods.

##### **Assets Disposed of for Less than Fair Market Value**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Assets disposed of for less than fair market value during the two years preceding the date of application or the effective date of the recertification must be disclosed by the applicant/tenant. In accordance with the state of Connecticut's LIHTC Compliance Manual, if the cash value of the disposed asset exceeds the gross amount the family received by more than \$1,000, the difference between the cash value of the asset and the amount received must be counted for two years.

#### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

No changes to this section.

#### **7-III.G. RETIREMENT ACCOUNTS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that written third party verifications are preferred. Verifications must be sent directly to the source and the source must return them directly to the owner. Verifications are valid for 120 days from date of receipt by the project owner/agent.

Verifications must not be hand-carried by the applicant/tenant to or from the source. If written verification is not possible, direct contact with the source, in person or by phone

is acceptable. This verbal verification must be documented in the tenant file and must obtain all information as requested on the written verification.

#### **7-III.H. INCOME FROM EXCLUDED SOURCES**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither IRS Code nor the state of Connecticut's LIHTC Compliance Manual discusses verification of excluded income.

#### **7-III.I. ZERO ANNUAL INCOME STATUS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Neither IRS Code nor the state of Connecticut's LIHTC compliance manual explicitly prohibits a zero-income applicant/tenant from residing in a LIHTC unit. Extreme caution should be taken, however, when renting to a zero-income household. The state of Connecticut requires a Certification of Zero Income (TC-100F) form be completed by all adult household members with no reported income. The IRS expects reasonable judgment to be used for estimating the income a household will receive during the year. If the applicant/tenant's income cannot be determined using current information, actual income received or earned within the 12-month period before the determination of annual income can be used.

#### **7-III.J. STUDENT FINANCIAL ASSISTANCE**

No changes to section.

#### **7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

No changes to section.

### **PART IV: VERIFYING MANDATORY DEDUCTIONS**

No changes to this section for the standard or RAD PBV programs.

This part does not apply to the LIHTC program. Deductions are not verified or considered in the LIHTC program.

## Chapter 19

### SECTION VIII

#### **HOUSING QUALITY STANDARDS AND RENT REASONABLE DETERMINATIONS [24 CFR 982 Subpart I and 24 CFR 982.507] (State of Connecticut LIHTC compliance manual)**

##### **INTRODUCTION**

For the standard and RAD PBV programs:

Housing Quality Standards (HQS) apply to the PBV program. Special HQS requirements for shared housing, manufactured home space rental and the homeownership program do not apply because these housing types are not assisted under the PBV program. Further, requirements for when inspections are conducted differ between the project-based and tenant-based programs.

Rent reasonableness also applies to the PBV program, although the requirements for when rent reasonableness is determined differ between the project-based and tenant-based programs.

For the LIHTC program:

Nothing in this chapter applies to the LIHTC program. HQS is not used for inspections and rent reasonableness determinations are not made for tax credit units.

When work is occurring under RAD, HUD requires that all units meet HQS no later than the date of completion of the Work as indicated in the RCC.

The IRS requires that the state allocating agency conduct a physical inspection of LIHTC properties at least once every three years. The state of Connecticut has identified Uniform Physical Condition Standards (UPCS) and State Building Codes as the inspection standard used for the LIHTC program. While the LIHTC programs use UPCS, REAC protocol is not used like in HUD programs that rely on UPCS.

### **PART I: PHYSICAL STANDARDS**

#### **8-I.A. GENERAL HUD REQUIREMENTS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect LIHTC units using HUD's Uniform Physical Condition Standards (UPCS) and State Building Codes.

#### **8-I.B. ADDITIONAL LOCAL REQUIREMENTS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect LIHTC units using HUD's Uniform Physical Condition Standards (UPCS) and State Building Codes.

#### **8-I.C. LIFE-THREATENING (LT) CONDITIONS [24 CFR 982.404(a)]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Exigent health violations and safety and fire hazards require immediate attention from the owner because of their life-threatening potential. Exigent health and safety violations include exposed electrical wires or water leaks on or near electrical equipment; propane/natural gas/methane gas detected; emergency/fire exits that are blocked; unusable fire escapes; gas or oil-fired hot water heaters with missing or misaligned chimneys that pose carbon monoxide hazards. Fire safety hazards include missing or inoperative smoke detectors; fire extinguishers expired or window security bars preventing egress from a building.

#### **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

##### **Family Responsibilities**

No changes to this section for the standard or RAD PBV programs.

Nothing in this section applies to the LIHTC program.

#### **8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]**

No changes to this section for the standard or RAD PBV programs.

While the Lead Hazard Reduction Act of 1992 and certain parts of 24 CFR Part 35 applies to the LIHTC program, requirements listed here for tenant-based assistance programs do not apply to the LIHTC program.

#### **8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]**

This section applies to the RAD and standard PBV program with the following exception: If ECC/HANH determines that a unit is overcrowded because of an increase in family size or a change in family composition.

Reference Chapter 17 of HANH's Administrative Plan at **Section 17-VIIC.MOVES** for how to handle overcrowded, under-occupied, and accessible units (24 CFR 983.260).

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect LIHTC units using HUD's Uniform Physical Condition Standards (UPCS) and State Building Codes.

## **PART II: THE INSPECTION PROCESS**

### **8-II.A. OVERVIEW [24 CFR 982.405]**

#### **Types of Inspections**

Only selected parts of this section apply to the standard and RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VIII.D. INSPECTING UNITS** for the difference definitions of inspections conducted by ECC/HANH.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect LIHTC units using HUD's Uniform Physical Condition Standards (UPCS) and State Building Codes.

#### **Inspection of ECC/HANH-Owned Units [24 CFR 982.352(b)]**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-VIII.D. INSPECTING UNITS** for the requirements for inspecting ECC/HANH-owned units.

#### **Inspection Costs**

No changes to this section for standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum may bill the owner/agent for failure to have a site representative capable of keeping up with the Spectrum inspector present during all times of the inspection.

#### **Notice and Scheduling**

No changes to this section for standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect 20% of the units and all common areas in all buildings by December 31<sup>st</sup> of the second year after the last building places in service. Spectrum will notify the owner/agent at least 30 days in advance of the site visit.

#### **Owner and Family Inspection Attendance**

No changes to this section for standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum requires an owner/agent representative to accompany the ECC/HANH inspector at all times during the site inspection.

## 8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

### Timing of Initial Inspections

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see chapter 17 of ECC/HANH's Administrative Plan at **Section 17-III.D. INSPECTING UNITS** for timing of initial inspections in the standard and RAD PBV programs.

For the RAD PBV program:

The RAD PBV program follows the same inspection requirements as the standard PBV program with the exception that RAD PBV units must meet HQS no later than the date of completion of initial repairs as indicated in the RAD Conversion Commitment (RCC).

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect 20% of the units and all common areas in all buildings by December 31<sup>st</sup> of the second year after the last building places in service. Spectrum will notify the owner/agent at least 30 days in advance of the site visit.

### Pre-HAP Contract Inspections [24 CFR 983.103(b)]

#### Alternative Inspection Provision [Notice PIH 2017-20 (HA)]

ECC/HANH can approve assisted tenancy of a unit prior to the HQS inspection if the property has passed an alternative inspection within the past 24 months.

Under this provision, ECC/HANH approves the assisted lease term, conducts the initial within 15 days of receiving the Request for Tenancy Approval (RFTA) form. (Form HUD-52517)

If the unit has failed HQS deficiencies, the HAP is suspended until the HAP failed deficiencies have been corrected.

ECC/HANH then makes assistance payments retroactively, dating back to the effective date of the assisted lease term, once the unit has been inspected and found to meet HQS standards.

#### ECC/HANH Policy

##### **A. Eligible Alternative Inspection Methods**

The alternative inspection method **must** meet all the following requirements:

- 1) ECC/HANH must be able to obtain the results of the alternative inspection that occurred within the last 24 months.
- 2) If the alternative inspection method used sampling (a sample of the total number of units at the property), the unit in question must have been included in the universe of units from which the sample was drawn.

For example, if a 100-unit property includes 20 units that are occupied by an HCV-assisted family, then those 20 units must have been included in the universe of units from which the alternative inspection sample was pulled.

However, this does not mean that any or all of the 20 units would necessarily have to been part of the units that were originally inspected, only a part of the universe that the sample was originated from.

- 3) ECC/HANH may rely upon the following alternative inspections which would have occurred within the last 24 months:
  - a. Housing assisted under the HOME Investment Partnerships (HOME) program
  - b. Housing financed using Low Income Housing Tax Credits (LIHTCs), CHFA
  - c. inspections performed by HUD, without prior HUD approval.

In order to use an alternative inspection method other than that used for HOME, LIHTC, or inspections performed by HUD, that method must be approved by HUD's Real Estate Assessment Center (REAC) and additional amendment must be made to this HCV Administrative Plan.

### **B. Timing of the Initial HQS Inspection**

The alternative inspection provision does not eliminate the requirement for ECC/HANH to conduct the initial HQS inspection.

ECC/HANH must conduct the initial HQS inspection within 15 days of receiving the RFTA (Form HUD-52517).

### **C. Approval of Assisted Tenancy**

ECC/HANH will approve the assisted tenancy and execution of the lease before the initial HQS inspection takes place and will inspect the unit within 15 days of receiving the RFTA.

- 1) At the time of voucher issuance, as part of the tenant package, ECC/HANH will provide the family with the list of conditions defined as life-threatening in this Administrative Plan.
- 2) The family will submit the RFTA for the unit.
- 3) ECC/HANH will determine if the property passed an inspection within the previous 24 months that qualifies as an alternative inspection.
- 4) ECC/HANH will obtain a copy of the alternative inspection report.
- 5) ECC/HANH will notify both the owner and the family that unit is eligible for approval based on alternative inspection.
- 6) ECC/HANH will explain to the family how the alternative inspection provision applies to the unit they have selected. The family may choose to:

- a. accept the unit,
- b. decline the unit until it has passed ECC/HANH's inspection, or
- c. decline the unit and wait for another LIHTC PBV, RAD/PBV unit offer with their voucher.

7) ECC/HANH needs to ensure that the owner understands that they will not receive the initial HAP until ECC/HANH has inspected the unit and determined the unit meets HQS, even though the family's assisted tenancy has commenced and that the HAP payment will be paid retroactively to the date of the lease term.

8) If the unit has been accepted, ECC/HANH will determine that the rent to owner is reasonable and that the family share does not exceed 40 percent of monthly adjusted income (unless gross rent is equal or less than the payment standard), and that the lease includes the tenancy addendum.

9) ECC/HANH will approve occupancy and the family and owner will execute the lease (including HCV tenancy addendum and lead-based paint disclosure information as required).

10) ECC/HANN will conduct the initial HQS inspection (within 15 days of receiving the RFTA).

#### **D. Housing Assistance Payment**

Under the alternative inspection provision, no housing assistance payments will be made to the owner until the unit passes the initial HQS inspection. If the unit passes the HQS inspection, ECC/HANH will make housing assistance payments retroactively to the effective date of the lease.

##### **Process for HAP Payment the Alternative Inspection Provision Only**

- After the initial inspection, ECC/HANH will notify the owner and family in writing of the inspection results.
- If the unit passes HQS, ECC/HANH will begin making HAP payment retroactively to the start of the assisted lease term.
- If the unit fails the HQS inspection
  - ECC/HANH must require that life-threatening deficiencies be corrected within 24 hours and that non-life-threatening deficiencies be corrected within 30 days
  - If the deficiencies are corrected within the timeframes, noted above, and the unit passes the HQS inspection, ECC/HANH will make the HAP payment retroactive to the start of the assisted lease term
  - ECC/HANH must withhold HAP during the period that unit has failed deficiencies and will only make the HAP payment retroactively when the unit has passed the inspection
  - If the deficiencies are not corrected during the timeframe, ECC/HANH abate the HAP payment, per ECC/HANH abatement policy

- ECC/HANH must then follow the HAP termination process and issue a voucher to the family to move due to the owner non-compliance with HQS.

### **E. Notification of Owners and Tenants**

ECC/HANH must notify owners and families of the new procedures and timeline for assistance payments

ECC/HANH must advise families of the list of the life-threatening deficiencies so the family can look for the items in the unit and notify ECC/HANH if the deficiencies are found or decline to enter into a lease with the owner. The list should be provided at the family briefing or voucher issuance meeting.

ECC/HANH will notify the family that if the family agrees to move into the unit and the unit does not pass the inspection, the family may be obligated to stay in the unit, in accordance with the lease, until the repairs are completed or ECC/HANH terminates the HAP contract for that unit in accordance with the HQS enforcement policy and that if the HAP contract for the unit is terminated, the family will have to move in order to retain the voucher.

### **Inspection Results and Reinspections**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see chapter 17 of ECC/HANH's Administrative Plan at **Section 17-III.D. INSPECTING UNITS** for timing of initial inspections in the standard and RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will provide a written Owner's Report after review with CHFA. A 30-day period in which to reply will be given. Late submissions will be considered noncompliance by Spectrum.

The owner/agent's responses to the Owner's Report will be reviewed and, after review with CHFA, a notification to the owner/agent will be sent out informing the owner of their compliance status. If non-compliance is being reported, an unsigned copy of the generated IRS Form 8823 will be included as an attachment.

### **Utilities**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART III: Dwelling Units** for the standard and RAD PBV programs.

### **Appliances**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART III: Dwelling Units** for the standard and RAD PBV programs.

#### **8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]**

At least once every 24 months during the term of the HAP contract, ECC/HANH must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

##### ECC/HANH Policy

Owner will follow its regular tenant-based program inspection requirements as outlined in Chapter 8.

If more than 20 percent of the sample of inspected contract units in a building, fail the initial inspection, ECC/HANH must reinspect 100 percent of the contract units in the building.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART III: Dwelling Units** for the standard and RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect 20% of the units, and all common areas in all buildings at least once every three years.

The owner/agent must certify annually that the buildings and units in an LIHTC project were suitable for occupancy.

#### **8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]**

No changes to section for the standard and RAD PBV programs.

Nothing in this section applies to the LIHTC program.

#### **8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]**

No changes to section for the standard and RAD PBV programs.

Nothing in this section applies to the LIHTC program.

#### **8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

##### **Notification of Corrective Actions**

No changes to section for the standard and RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will provide a written Owner's Report, after review with CHFA. A 30-day period in which to reply will be given. Late submissions will be considered noncompliance by Spectrum.

The owner/agent's responses to the Owner's Report will be reviewed and, after review with CHFA, a notification to the owner/agent will be sent out informing the owner of his compliance status. If non-compliance is being reported, an unsigned copy of the generated IRS Form 8823 will be included as an attachment.

#### **Extensions**

No changes to section for the standard and RAD PBV programs.

Nothing in this section applies to the LIHTC program.

#### **Reinspections**

No changes to section for the standard and RAD PBV programs.

Nothing in this section applies to the LIHTC program.

### **8-II.G. ENFORCING OWNER COMPLIANCE**

No changes to section for the standard and RAD PBV programs.

For the LIHTC program:

If non-compliance is being reported, an unsigned copy of the generated IRS Form 8823 will be included as an attachment

#### **HAP Contract Termination**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART VI: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for HAP contract terminations in the standard and RAD PBV programs.

### **8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

No changes to section for the standard and RAD PBV programs.

Nothing in this section applies to the LIHTC program.

## **PART III: RENT REASONABLENESS [24 CFR 982.507]**

This part does not apply to the LIHTC program.

### **8-III.A. OVERVIEW**

This section does not apply to the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART VIII.C: RENT REASONABLENESS** for how rent reasonableness is determined in the standard and RAD PBV programs.

### **ECC/HANH-Owned Units [24 CFR 982.352(b)]**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART VIII.C: RENT REASONABLENESS** for how rent reasonableness is determined in the standard and RAD PBV programs for ECC/HANH-owned units.

## **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

### **Owner-Initiated Rent Determinations**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17-PART VIII.B. RENT LIMITS and PART VIII.C: RENT REASONABLENESS** for when rent reasonableness is determined in the standard and RAD PBV programs.

### **ECC/HANH- and HUD-Initiated Rent Reasonableness Determinations**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17- PART VIII.B. RENT LIMITS and PART VIII.C: RENT REASONABLENESS** for when rent reasonableness is determined in the standard and RAD PBV programs.

### **LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17- PART VIII.B. RENT LIMITS** for how to determine rent for LIHTC units in the standard and RAD PBV programs.

## **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17- PART VIII.B. RENT LIMITS and PART VIII.C: RENT REASONABLENESS** for when rent reasonableness is determined in the standard and RAD PBV programs.

### **Units that Must Not Be Used as Comparables**

No changes to the standard or RAD PBV programs.

### **Rents Charged for Other Units on the Premises**

No changes to the standard or RAD PBV programs.

## **8-III.D. ECC/HANH RENT REASONABLENESS METHODOLOGY**

This section does not apply to either the standard or RAD PBV programs.

Please see chapter 17 of HANH's Administrative Plan at **Section 17- PART VIII.B. RENT LIMITS and PART VIII.C: RENT REASONABLENESS** for when rent reasonableness is determined in the standard and RAD PBV program.

## Chapter 19

### SECTION IX

#### GENERAL LEASING POLICIES

##### INTRODUCTION

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

##### PART I: LEASING POLICIES

###### 9-I.A. TENANT SCREENING

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Tenant Screening in the standard PBV program and for new admissions after conversion to the RAD PBV programs is described in detail in Chapter 17 of HANH's Administrative Plan at **Section 17-VI.G. Tenant Screening (24 CFR 983.255)**.

**Owners are in the LIHTC and RAD/PBV sites are responsible for screening prospective tenants for admission based on their Property Management screening guidelines.**

For the RAD PBV program:

ECC/HANH may not re-screen existing public housing tenants upon conversion. Current households are not subject to rescreening, income eligibility or income targeting. Current households are grandfathered in for conditions that occurred prior to conversion. They are, however, subject to any ongoing eligibility requirements for actions that occur after conversion.

When determining the eligibility of new admissions, including tenant screening, the PBV program follows the same eligibility criteria as the HCV program.

###### 9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VI.E. Offer of PBV Assistance** for how PBV assistance is offered.

###### 9-I.C. OWNER PARTICIPATION

No changes to this section.

## **9-I.D. ELIGIBLE UNITS**

### **Ineligible Units [24 CFR 982.352(a)]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17.II.D. Prohibition of Assistance for Certain Units** for Ineligible Housing Types in the standard PBV program.

### **ECC/HANH-Owned Units [24 CFR 982.352(b)]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

HANH does engage in mixed-finance development and is a PBV-owner. HANH must comply with certain conditions identified in PIH Notice 2015-05.

### **Special Housing Types [24 CFR 982 Subpart M]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Ineligible special housing types for the standard PBV program include:

- Shared housing
- Manufactured housing
- Transitional housing
- For existing housing, a unit that is occupied by a person ineligible to participate in the PBV program
- Any units which construction or rehabilitation has commenced as defined in 24 CFR 983.152 after proposal submission and prior to execution of an AHA

### **Duplicative Assistance [24 CFR 982.352(c)]**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **Unit Size**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VI.E. Offer of PBV Assistance** for how standard and RAD PBV assistance is offered.

### **Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VIII Determining Rent to Owner** for standard and RAD PBV rent reasonableness requirements.

### **Rent Burden [24 CFR 982.508]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

For the RAD PBV program:

While HCV rent burden requirements do not apply to the standard or RAD PBV programs, please see Chapter 17 of HANHs Administrative Plan **Part VIII: Determining Rent to Owner** for special rent phase-in requirements for RAD PBV units.

## **9-I.E. LEASE AND TENANCY ADDENDUM**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **Lease Form and Tenancy Addendum [24 CFR 982.308]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Part VII: Occupancy, Section 17-VII.B. Lease** for standard and RAD PBV lease requirements.

### **Lease Information [24 CFR 982.308(d)]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Part VII: Occupancy, Section 17-VII.B. Lease** for standard and RAD PBV lease requirements.

### **Term of Assisted Tenancy**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Part VII: Occupancy, Section 17-VII.B. Lease** for standard and RAD PBV lease requirements.

### **Security Deposit [24 CFR 982.313 (a) and (b)]**

No changes to this section.

For the RAD PBV program:

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise, the security deposit requirements for standard PBV apply.

#### **Separate Non-Lease Agreements between Owner and Tenant**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC program requires that any mandatory supportive service or amenity charge be counted as part of the gross rent calculation. Such costs may include parking fees, a telephone if required to open the door or project gate as part of a security system, housekeeping, trash removal, meal service, or other required costs. Charges for optional services other than housing do not have to be included in gross rent, but such service must truly be option.

#### **ECC/HANH Review of Lease**

No changes to this section.

### **9-I.F. TENANCY APPROVAL [24 CFR 982.305]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

### **9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-V: Housing Assistance Payments Contract (HAP)** for standard and RAD PBV HAP contract requirements.

### **9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]**

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VII: Occupancy** for standard and RAD PBV changes in the lease.

## Chapter 19

### SECTION X

#### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY (CHFA LIHTC Compliance Manual)

##### INTRODUCTION

This section does not apply to either the standard or RAD PBV programs or the LIHTC program.

For the standard and RAD PBV programs:

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VII.C.: Moves** for standard and RAD PBV move requirements.

For the LIHTC program:

The LIHTC program requires that when LIHTC households move to another unit within the same building, the LIHTC status of the two units "swap". Thus, if a qualified LIHTC tenant moves to an "empty" unit, the new unit ceases to be "empty" and becomes a qualified unit. The original unit will then be deemed "empty".

Moves can occur between different buildings in the same project, as long as the tenant's income did not exceed 140% of the AMI at the most recent certification. Moves cannot occur between different buildings in different projects without initially re-qualifying the tenant as eligible under the LIHTC program.

## Chapter 19

### SECTION XI

#### REEXAMINATIONS

##### INTRODUCTION

Owners are required to reexamine each family's income and composition and to adjust the family's level of assistance accordingly.

For the RAD PBV program:

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, ECC/HANH does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA (ECC/HANH) will have to submit a HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing 50058, including the next annual reexamination date.

For the LIHTC program:

Annual reexamination requirements under the LIHTC program are added to this chapter as required. The state of Connecticut requires that owners re-certify tenants in tax credit units annually, on or before the anniversary date of the previous certification. Annual recertifications using third-party certifications are required in mixed-use LIHTC properties, while self-certification is acceptable in 100% LIHTC properties.

#### **PART I: BI/TRIENNIAL REXAMINATION [24 CFR 982.526]**

##### **11-I.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

##### **11-I.B. SCHEDULING BI/TRIENNIAL REEXAMINATIONS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut does not have a standard requirement for scheduling the annual LIHTC recertification process. The annual recertification must be completed within 12 months from the initial certification date, or 12 months from the most recent certification.

##### **Notification of and Participation in the Bi/Triennial Reexamination Process**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The state of Connecticut does not have a standard notification requirement for the annual LIHTC recertification process. The annual recertification must be completed within 12 months from the initial certification date, or 12 months from the most recent certification

#### **11-I.C. CONDUCTING BI/TRIENNIAL REEXAMINATIONS**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The LIHTC file must have a completed annual reexamination. The state of Connecticut requires that households be recertified annually using either a full reexamination or a self-certification, depending on the type of project. The state of Connecticut requires proof that all LIHTC households were interviewed to ensure that the information provided by the household is adequate and safe.

For LIHTC families that also have subsidies. They will recertify on an Annual/Biennial schedule in alignment with the HCV program.

#### **For 100% tax credit and tax-exempt bond properties:**

Every LIHTC household must undergo a complete annual recertification the year following move-in. In subsequent years, a self-certification is acceptable using the required and recommended forms found in the state of Connecticut's LIHTC compliance manual including the Recertification Update and the Self-Certification of Annual Income forms. A Lease Addendum form (TC-100B(1)) must be completed by the household and the owner/agent and placed in the file.

#### **For tax credit properties with tax credit and non-tax credit units:**

Every LIHTC household must undergo a complete annual recertification every year. Self-certifications are not allowed in this type of project. CHFA required and recommended forms found in the state of Connecticut's LIHTC compliance manual forms must be used, including the Recertification Update form. A Lease Addendum form (TC-100B) must be completed by the household and the owner/agent and placed in the file.

#### **11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

#### **11-I.E. EFFECTIVE DATES**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program. The annual recertification must be completed within 12 months from the initial certification date, or 12 months from the most recent certification

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]**

### **11-II.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

Rents are not based on income in the LIHTC program and interim reexaminations are not performed.

### **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

Changes in family and household composition are addressed differently depending on whether the building is mixed-use or a 100% LIHTC building.

#### **Family Size Increases in 100% LIHTC Buildings:**

If a building is a 100% LIHTC building, the new household member's income is added to the income disclosed on the existing household's original tenant income certification (TIC).

#### **Family Size Increases in Mixed-Use Buildings:**

If a building is a mixed-use LIHTC building, the new household member's income is added to the income disclosed on the existing household's most recent tenant income certification (TIC). The household continues to be income-qualified, and the income of the new household member is taken into consideration with the income of the existing household for purposes of the New Available Unit Rule.

### **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

No changes to this section for the standard or RAD PBV programs.

This entire section does not apply to the LIHTC program.

For the LIHTC program:

#### **Next Available Unit Rule**

If the gross household income of residents in the LIHTC unit increases to more than 140% of the current, applicable MTSP income limit, the unit is then considered by the IRS to be an "over-income" unit. The IRS allows this unit to continue to generate a LIHTC provided the following two conditions are met:

1. The next available comparable size unit in the building must be rented to a new LIHTC-qualified household.
2. The over-income unit must continue to be rent restricted.

The owner/agent must rent to LIHTC-qualified resident ALL comparable units that are available or that subsequently become available in the same building until the applicable fraction (excluding the over-income unit(s)) is restored to the percentage on which the credit is based.

#### **11-II.D. PROCESSING THE INTERIM REEXAMINATION**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

This part does not apply to the standard or RAD PBV programs or the LIHTC program.

#### **11-III.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

#### **11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

This part does not apply to the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **Section 17-VIII.B.: Rent Limits** for how FMRs, Exception Payment Standards and Utility Allowances are used in the standard and RAD PBV programs.

#### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

#### **11-III.D. DISCREPANCIES**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

## Chapter 19

### SECTION XII

#### TERMINATION OF ASSISTANCE AND TENANCY

Selected parts of this chapter apply to the standard and RAD PBV programs.

This chapter does not apply to the LIHTC program. Neither the state of Connecticut's LIHTC compliance manual nor the IRS Code discusses termination of tenancy. Termination of tenancy in the LIHTC program must comply with the state of Connecticut's landlord/tenant law. In addition, federal VAWA requirements apply to the LIHTC program.

#### PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

##### 12-I.A. OVERVIEW

No changes to this section.

##### 12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

No changes to this section for the standard PBV program.

For additional information, see Chapter 17 of HANH's Administrative Plan **Part VII: Occupancy**.

For the RAD PBV program:

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, the family will pay with owner an amount equal to their TTP. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, the standard PBV regulations apply to any new families referred to the project. See Chapter 17 of HANH's Administrative Plan **Part VII: Occupancy**.

##### 12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

No changes to this section.

##### 12-I.D. MANDATORY TERMINATION OF ASSISTANCE

No changes to this section.

##### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

No changes to this section.

**Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

No changes to this section.

**Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]**

No changes to this section.

**Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

No changes to this section.

**Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

No changes to this section.

**Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

No changes to this section.

**Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

No changes to this section.

**12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

**Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

No changes to this section.

***Use of Illegal Drugs and Alcohol Abuse***

No changes to this section.

***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

No changes to this section.

**Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]**

No changes to this section.

***Family Absence from the Unit [24 CFR 982.312]***

No changes to this section.

***Insufficient Funding [24 CFR 982.454]***

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **Section V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for how insufficient funding affects the standard and RAD PBV programs.

## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

No changes to this section.

### **12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

This section does not apply to the standard or RAD PBV programs.

### **12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

#### **Change in Household Composition**

No changes to this section.

#### **Repayment of Family Debts**

No changes to this section.

### **12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

#### **Evidence**

No changes to this section.

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

No changes to this section.

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

No changes to this section.

### **12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

No changes to this section.

#### **Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

No changes to this section.

#### **Documentation of Abuse [24 CFR 5.2007]**

No changes to this section.

#### **Terminating the Assistance of a Domestic Violence Perpetrator**

No changes to this section.

### **12-II.F. TERMINATION NOTICE**

For the standard and RAD PBV programs, this section is amended to read:

HUD regulations requires ECC/HANH to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's lease will also terminate when the family's assistance terminates it is a

good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

## **PART III: TERMINATION OF TENANCY BY THE OWNER**

### **12-III.A. OVERVIEW**

No changes to this section.

### **12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]**

The standard and RAD PBV Tenancy Addendum is Form HUD-52530c.

#### **Serious or Repeated Lease Violations**

No changes to this section.

#### **Violation of Federal, State, or Local Law**

No changes to this section.

#### **Criminal Activity or Alcohol Abuse**

No changes to this section.

#### ***Evidence of Criminal Activity***

No changes to this section.

#### **Other Good Cause**

For the standard and RAD PBV programs:

Terminating tenancy for good cause does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose. Please see Chapter 17 of HANH's Administrative Plan at **Section VII: OCCUPANCY** for Owner Termination of Tenancy.

For the LIHTC program:

The owner may only evict, non-renew the lease, or otherwise terminate tenancy of an existing tenant for good cause.

### **12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The standard and RAD PBV Tenancy Addendum is Form HUD-52530c.

### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

No changes to this section.

### **12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE**

This section does not apply to the standard or RAD PBV programs.

#### **EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS**

Each family must sign a PBV Statement of Family Responsibilities in lieu of the Statement of Family Obligations in both the standard and RAD PBV programs.

**Chapter 19**  
**SECTION XIII**  
**OWNERS**

**INTRODUCTION**

No changes to this section for the standard PBV program.

This section does not apply to the RAD PBV program.

This chapter does not apply to the LIHTC program.

**PART I. OWNERS IN THE HCV PROGRAM**

**13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]**

**Recruitment**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART II PBV OWNER PROPOSALS** for owner submission of PBV proposals and for ECC/HANH selection of PBV proposals.

**Retention**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART II PBV OWNER PROPOSALS** for owner submission of PBV proposals and for ECC/HANH selection of PBV proposals.

**13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

This section does not apply to the standard or RAD PBV programs.

For the standard PBV program, please see Chapter 17 of HANH's Administrative Plan at **PART II PBV OWNER PROPOSALS** for owner submission of PBV proposals and for ECC/HANH selection of PBV proposals.

**13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART II Section 17.V.E. OWNER RESPONSIBILITIES UNDER THE HAP** for owner responsibilities in the standard and RAD PBV programs.

### 13-I.D. OWNER QUALIFICATIONS

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART II PBV OWNER PROPOSALS** for owner submission of PBV proposals and for ECC/HANH selection of PBV proposals in the standard PBV program.

#### **Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

No changes to this section for the standard PBV program.

This section does not apply to the RAD PBV program.

#### **Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

No changes to this section for the standard PBV program.

This section does not apply to the RAD PBV program.

#### **Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]**

No changes to this section for the standard PBV program.

This section does not apply to the RAD PBV program.

#### **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART II PBV OWNER PROPOSALS** for selection of owner proposals for the standard PBV program.

#### **Legal Ownership of Unit**

No changes to this section for the standard PBV program.

For the RAD PBV program:

For public housing conversions, ownership must be either of the following:

- A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property.
- A private entity, if the property has low-income tax credits. ECC/HANH must maintain control via a ground lease.

### 13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for the HAP contract used in the standard and RAD PBV programs.

## **PART II. HAP CONTRACTS**

### **13-II.A. OVERVIEW**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for the HAP contract used in the standard and RAD PBV programs.

### **13-II.B. HAP CONTRACT CONTENTS**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for the HAP contract used in the standard and RAD PBV programs.

### **13-II.C. HAP CONTRACT PAYMENTS**

#### **General**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART IX PAYMENTS TO OWNER** for the how housing assistance payments are calculated to the owner in the standard and RAD PBV programs.

#### **Owner Certification of Compliance**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART IX PAYMENTS TO OWNER** for the how housing assistance payments are calculated to the owner in the standard and RAD PBV programs.

#### **Late HAP Payments [24 CFR 982.451(a) (5)]**

No changes to this section.

#### **Termination of HAP Payments [24 CFR 982.311(b)]**

No changes to this section.

### **13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

No changes to this section.

Please see Chapter 17 of HANH's Administrative Plan at **PART V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for HAP contract terms and ECC/HANH and owner termination of the HAP contract in the standard and RAD PBV programs.

### **13-II.E. HAP CONTRACT TERM AND TERMINATIONS**

This section does not apply to the standard or RAD PBV programs.

Please see Chapter 17 of HANH's Administrative Plan at **PART V HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)** for HAP contract terms and ECC/HANH and owner termination of the HAP contract in the standard and RAD PBV programs.

### **13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

This section does not apply to the standard or RAD PBV programs.

## **Chapter 19**

### **SECTION XIV**

#### **PROGRAM INTEGRITY**

##### **INTRODUCTION**

No changes to this section for the standard or RAD PBV programs.

While neither the IRS Code nor the state of Connecticut's LIHTC compliance manual discuss program integrity, the owner may follow policies in the admin plan for program integrity for the LIHTC file, provided they do not violate any LIHTC requirements.

For the LIHTC program, add:

Neither IRS Code nor the state of Connecticut's LIHTC compliance manual discuss program integrity. The Guide for Completing Form 8823 states that LIHTC owners should demonstrate due diligence to prevent tenant fraud. If misrepresentation is suspected, additional steps should be taken to verify the accuracy of information provided by the tenant. The IRS does not consider reportable noncompliance to have occurred if tenant fraud is discovered and addressed by the owner prior to a state agency review or an IRS audit, and the owner satisfies the state agency that:

- The tenant provided false information;
- The owner did everything a prudent person would do to avoid fraudulent tenants (due diligence) and has implemented any needed changes to avoid future problems;
- The tenant has vacated the unit (if possible); and
- There is no pattern of accepting fraudulent tenants

An owner's opportunity to identify and self-correct misrepresentations or fraud by a tenant terminates upon notification of a state agency's intended review/inspection of the LIHTC project. Any noncompliance arising from such a misrepresentation or fraud discovered during a state agency's review/inspection should be reported to the IRS on Form 8823 under the appropriate category of noncompliance, regardless of the cause.

#### **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

##### **14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

No changes to this section.

##### **14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

No changes to this section.

### **Independent Audits and HUD Monitoring**

No changes to this section.

### **Individual Reporting of Possible Errors and Program Abuse**

No changes to this section.

## **14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When ECC/HANH Will Investigate**

No changes to this section.

### **Consent to Release of Information [24 CFR 982.516]**

No changes to this section.

### **Analysis and Findings**

No changes to this section.

### **Consideration of Remedies**

No changes to this section.

### **Notice and Appeals**

No changes to this section.

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

## **14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

### **Corrections**

No changes to this section.

### **Reimbursement**

No changes to this section.

## **14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

No changes to this section.

### **Family Reimbursement to ECC/HANH [HCV GB pp. 22-12 to 22-13]**

No changes to this section.

## **ECC/HANH Reimbursement to Family [HCV GB p. 22-12]**

No changes to this section.

### **Prohibited Actions**

No changes to this section.

### **Penalties for Program Abuse**

No changes to this section.

## **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

No changes to this section.

### **Owner Reimbursement to ECC/HANH**

No changes to this section.

### **Prohibited Owner Actions**

No changes to this section.

### **Remedies and Penalties**

No changes to this section.

## **14-II.D. ECC/HANH-CAUSED ERRORS OR PROGRAM ABUSE**

For the standard and RAD PBV programs, the paragraph is amended to read:

The responsibilities and expectations of ECC/HANH staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of an ECC/HANH staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the ECC/HANH personnel policy.

ECC/HANH-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, (3) errors in calculation.

### **Repayment to the ECC/HANH**

#### **ECC/HANH Reimbursement to Family or Owner**

No changes to this section.

### **Prohibited Activities**

No changes to this section.

#### **14-II.E. CRIMINAL PROSECUTION**

No changes to this section.

#### **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

No changes to this section.

## **Chapter 19**

### **SECTION XV**

#### **SPECIAL HOUSING TYPES**

[24 CFR 982 Subpart M]

##### **INTRODUCTION**

For the standard PBV programs:

Ineligible special housing types discussed in this chapter include:

- Shared Housing,
- Manufactured Housing
- Homeownership Option.

For the RAD PBV program:

Nothing in this chapter applies to RAD PBV. HUD has issued no guidance on converting public housing units to special housing types under the RAD program.

For the LIHTC program:

Ineligible special housing types discussed in this chapter include:

- Shared Housing,
- Cooperative Housing;
- Manufactured Housing;
- Homeownership Option.

The following types of housing, not discussed in this chapter, are additional housing types that are ineligible for the LIHTC program:

- Hospitals
- Nursing homes
- Sanitariums
- Life care facilities
- Retirement homes providing significant services other than housing
- Dormitories

#### **PART I: SINGLE ROOM OCCUPANCY [24 CFR 982.602 through 982.605]**

##### **15-I.A. OVERVIEW**

For the PBV program:

SRO is an allowable housing type. There is no separate HAP contract for each PBV lease.

For the LIHTC program:

Certain SRO housing units used on a non-transient basis may be qualified LIHTC units even though such housing may provide eating, cooking and sanitation facilities on a shared basis. Please check with your state allocating agency.

## **PART II: CONGREGATE HOUSING**

[24 CFR 982.606 through 982.609]

For the PBV program:

Congregate housing is an allowable housing type. There is no separate HAP contract for each PBV lease.

For the LIHTC program:

Certain congregate housing may be qualified LIHTC units even though such housing may provide eating, cooking and sanitation facilities on a shared basis. Please check with your state allocating agency.

## **PART III: GROUP HOME**

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

For the PBV program:

Group home housing is an allowable housing type. There is no separate HAP contract for each PBV lease.

For the LIHTC program:

This type of housing is an ineligible housing type in the LIHTC program. This section does not apply to the LIHTC program.

## **PART IV: SHARED HOUSING [24 CFR 982.615 through 982.618]**

This type of housing is an ineligible housing type in the both the PBV and LIHTC programs.

## **PART V: COOPERATIVE HOUSING [24 CFR 982.619]**

For the PBV program:

Cooperative housing is an allowable housing type. There is no separate HAP contract for each PBV lease. See regulations at 24 CFR 983.9(2)(c), (3), (4), and (5) for a discussion of cooperative housing in the PBV program.

For the LIHTC program:

This type of housing is an ineligible housing type in the LIHTC program. This section does not apply to the LIHTC program.

## **PART VI: MANUFACTURED HOMES [24 CFR 982.620 through 982.624]**

This type of housing is an ineligible housing type in the both the PBV and LIHTC programs.

## **PART VII: HOMEOWNERSHIP [24 CFR 982.625 through 982.643]**

This type of housing is an ineligible housing type in the both the PBV and LIHTC programs.

## Chapter 19

### SECTION XVI

#### PROGRAM ADMINISTRATION

##### INTRODUCTION

Selected parts of this chapter apply to the standard and RAD PBV programs.

Nothing in this chapter applies to the LIHTC program. Additional topics specific to administering the LIHTC program are included as applicable.

##### PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

No changes to this section for the standard or RAD PBV programs.

This part does not apply to the LIHTC program.

##### PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

###### 16-II.A. OVERVIEW

For the standard and RAD PBV programs, this section is amended to read:

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow ECC/HANH to adapt the program to local conditions. This part discusses how ECC/HANH establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

###### ECC/HANH Policy

Copies of the utility allowance schedules are available for review in ECC/HANH's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

ECC/HANH will maintain documentation to support its annual review of utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the ECC/HANH passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

This section does not apply to the LIHTC program.

#### **16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

This section does not apply to either the standard or RAD PBV programs or LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **PART VIII DETERMINING RENT TO OWNER** for determining rent to owner.

#### **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

No changes to this section for the standard PBV program and for standard PBV/LIHTC units.

For the RAD PBV program and RAD PBV/LIHTC units:

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, ECC/HANH may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, unless a waiver is requested and approved by HUD, ECC/HANH must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. These utility allowances are effective for in-place families at recertification.

ECC/HANH may request a waiver from the PIH Field Office, however, in order to establish site-specific utility allowance schedules. MTW agencies would instead secure approval through their MTW Plan. To be approved, ECC/HANH must show good cause that the utility allowance schedule for their voucher program would either:

- Create an undue cost for families because the utility allowance provided under the voucher program is too low, or
- Discourage conservation and efficient use of HAP funds because the utility allowance provided under the voucher program would be excessive if applied to the Covered Project

ECC/HANH must submit an analysis of utility rates for the community and consumption data of project residents in comparison to community consumption rates; and a proposed alternative methodology for calculating utility allowances on an ongoing basis.

When, as a result of a RAD conversion, the project will experience an improvement in energy and water efficiencies, ECC/HANH can submit UA projections performed by a professional engineer, based on the project's plans and specifications that, at a minimum,

take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The projections must be submitted in the RAD UA Projections Template. If approved by HUD, these UAs will be used to modify the initial PBV contract rents (for new construction) or post-rehab rents (for rehab) on the HAP contract.

### **Air Conditioning**

No changes to this section.

### **Reasonable Accommodation**

No changes to this section.

### **Utility Allowance Revisions (State of Connecticut's LIHTC Compliance Manual)**

No change to section for the standard and RAD PBV programs.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual requires that blended LIHTC/PBV units use ECC/HANH's utility allowance for the HCV program. Utility allowances must be updated at least annually since they are included in the maximum allowable rent calculations. Copies of utility allowance documentation must be submitted with CHFA's required annual year-end reports. Any new allowance must be implemented within 90 days of the change.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

This part does not apply to the LIHTC program.

### **16-III.A. OVERVIEW**

No changes to this section for the standard PBV program.

For the RAD PBV program:

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both ECC/HANH and the project owner.

### **16-III.B. INFORMAL REVIEWS**

For the standard and RAD PBV programs, the paragraph is amended to read:

ECC/HANH must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the ECC/HANH waiting list

#### ECC/HANH Policy

HANH will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the ECC/HANH waiting list.

#### **Notice to the Applicant [24 CFR 982.554(a)]**

No changes to this section.

#### **Scheduling an Informal Review**

No changes to this section.

#### **Informal Review Procedures [24 CFR 982.554(b)]**

No changes to this section.

#### **Informal Review Decision [24 CFR 982.554(b)]**

No changes to this section.

### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

For the PBV program, the paragraph is amended to read:

ECC/HANH is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under an outstanding HAP contract

#### **Decisions Subject to Informal Hearing**

For the standard PBV program, the paragraph is amended to read:

Circumstances for which ECC/HANH must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the ECC/HANH utility allowance schedule
- A determination of the family unit size under ECC/HANH's subsidy standards
- An ECC/HANH determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act

- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under ECC/HANH policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

All of the above apply. For the RAD PBV program, add:

Under RAD, there are additional hearing requirements beyond what is required in standard PBV. The owner must also offer the family an opportunity for a hearing in certain circumstances. The owner is not required to offer an informal hearing for:

- Class grievances
- Disputes between residents not involving owner

The owner must give residents notice of their ability to request an informal hearing for any dispute that a resident may have with the owner's action in accordance with the individual's lease that adversely affects the resident's rights, obligations, welfare, or status. The owner must provide the family with an opportunity for an informal hearing before an eviction.

## **Informal Hearing Procedures**

### ***Notice to the Family [24 CFR 982.555(c)]***

For the standard and RAD PBV programs, the paragraph is amended to read:

For decisions related to the termination of the family's assistance, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

All of the above applies. For the RAD PBV program, add:

Residents must be provided with notice of the specific grounds of the Project Owner's proposed adverse action, as well as their right to an informal hearing with the Project Owner.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Participant's Right to Bring Counsel [24 CFR 982.555(e) (3)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Informal Hearing Officer [24 CFR 982.555(e) (4)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Attendance at the Informal Hearing***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Conduct at Hearings***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Evidence [24 CFR 982.555(e) (5)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Hearing Officer's Decision [24 CFR 982.555(e) (6)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

***Procedures for Rehearing or Further Hearing***

No changes to this section.

This section also applies to the owner in RAD PBV.

***ECC/HANH Notice of Final Decision [24 CFR 982.555(f)]***

No changes to this section.

This section also applies to the owner in RAD PBV.

**16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

No changes to this section.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

No changes to this section.

#### **USCIS Appeal Process [24 CFR 5.514(e)]**

No changes to this section.

#### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

No changes to this section.

##### ***Informal Hearing Officer***

No changes to this section.

##### ***Evidence***

No changes to this section.

##### ***Representation and Interpretive Services***

No changes to this section.

##### ***Recording of the Hearing***

No changes to this section.

#### **Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

No changes to this section.

#### **Retention of Documents [24 CFR 5.514(h)]**

No changes to this section.

### **PART IV: OWNER OR FAMILY DEBTS TO ECC/HANH**

No changes to this section for the standard or RAD PBV programs.

This part does not apply to the LIHTC program. The owner must comply with the state of Connecticut's landlord/tenant law when collecting debts owed by the family.

#### **16-IV.A. OVERVIEW**

No changes to this section.

#### **16-IV.B. REPAYMENT POLICY**

No changes to this section.

### **Owner Debts to ECC/HANH**

No changes to this section.

### **Family Debts to ECC/HANH**

No changes to this section.

### **Repayment Agreement [24 CFR 792.103]**

No changes to this section.

### **General Repayment Agreement Guidelines for Families**

#### ***Down Payment Requirement***

No changes to this section.

#### ***Payment Thresholds***

No changes to this section.

#### ***Execution of the Agreement***

No changes to this section.

#### ***Due Dates***

No changes to this section.

#### ***Late or Missed Payments***

No changes to this section.

#### ***No Offer of Repayment Agreement***

No changes to this section.

### **Repayment Agreements Involving Improper Payments**

No changes to this section.

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

This part does not apply to the LIHTC program.

### **16-V.A. OVERVIEW**

No changes to this section.

## **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

No changes to this section.

### **HUD Verification Method**

No changes to this section.

## **16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]**

This section applies to the standard and RAD PBV programs with the exception of Indicator 12: Annual HQS Inspections. PBV basic inspection requirements only call for a random sample of 20 percent of the units in each project to be inspected annually.

## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

No changes to this section for the standard or RAD PBV programs.

This section does not apply to the LIHTC program.

### **16-VI.B. RECORD RETENTION [24 CFR 982.158]**

No changes to this section for the standard or RAD PBV programs.

For the LIHTC program:

The owner/agent must retain the following records for the first year of the credit period for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period, meaning original files must be retained for 21 years:

- Tenant files
- Monthly unit data tracking
- Project files, including records regarding the use of facilities included in the project's eligible basis;
- Records for each qualified low-income resident by building and unit number;
- LIHTC Owner's Compliance Certification;
- LIHTC Status Report;
- Qualified Basis Tracking Sheet

All other records are required to be retained for at least 6 years after the due date (with extension) for filing the federal income tax return for that year.

## **16-VI.C. RECORDS MANAGEMENT**

No changes to this section.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

No changes to this section.

### **Upfront Income Verification (UIV) Records**

No changes to this section.

### **Criminal Records**

No changes to this section.

### **Medical/Disability Records**

No changes to this section.

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

No changes to this section. This section applies to both the PBV and LIHTC programs.

## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

While the Lead Hazard Reduction Act of 1992 and certain parts of 24 CFR Part 35 apply to the LIHTC program, requirements listed here for tenant-based assistance programs do not apply to the LIHTC program.

### **16-VII.A. OVERVIEW**

No changes to this section.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

No changes to this section.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

No changes to this section.

## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

This part does not apply to the standard or RAD PBV programs or the LIHTC program.

Please see Chapter 17 of HANH's Administrative Plan at **PART V; HOUSING ASSISTANCE PAYMENT CONTRACT (HAP)** for when a HAP contract may be terminated due to insufficient funding.

## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

No changes to this section.

### **16-IX.B. DEFINITIONS [24 CFR 5.2003]**

No changes to this section.

### **16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]**

#### **Notification to Public**

No changes to this section.

#### **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

No changes to this section.

#### **Notification to Owners and Managers [24 CFR 5.2005(a)(2)]**

No changes to this section.

### **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

No changes to this section.

#### **Conflicting Documentation [24 CFR 5.2007(e)]**

No changes to this section.

#### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

No changes to this section.

#### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

No changes to this section.

## **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

No changes to this section.

## **Chapter 19**

### **SECTION XVII**

#### **PROJECT-BASED VOUCHERS**

##### **INTRODUCTION**

Since this chapter applies to the standard PBV program, only differences in the RAD PBV program and the LIHTC program are noted.

For the RAD PBV program:

On the whole, regulations for both the standard and RAD PBV programs generally closely follow the regulations for the tenant-based HCV program. While PBV regulations generally follow the tenant-based HCV voucher regulations, they are not identical. Further, RAD PBV rules further deviate from and waive specific standard PBV regulations.

##### **PART I: GENERAL REQUIREMENTS**

For the RAD PBV program, the following is amended to read:

Units converted to PBV under RAD and their associated budget authority are exempt from the 20 percent budget authority cap.

HANH may attach funding to mixed-finance developments which include Project-Based Section 8 units (the “PBV units”). These PBV units may be owned and managed by entities other than HANH. HANH may delegate certain admissions and occupancy functions as discussed within the Administrative Plan to the owners and/or managers of those mixed-finance developments. Such admissions and occupancy functions must be performed in accordance with this Administrative Plan and applicable HUD and HANH requirements.

Mixed-finance developments may be subject to Low-Income Housing Tax Credit (LIHTC) and/or Affordable Housing Program (AHP) Requirements. For purposes of this Administrative Plan:

- Tax Credit Requirements shall mean any and all matters required by Section 42 of the Internal Revenue Code of 1986 and regulations there under (Section 42), the Connecticut Housing Finance Agency (CHFA) or any agreement with a condition of receipt of tax credits, whether or not such requirement is explicitly stated in Section 42, or CHFA requirements; and
- AHP Requirements shall mean any and all matters required by the Federal Housing Finance Board Affordable Housing Program regulations at 12 CFR 951.

In order to ensure compliance with LIHTC and/or AHP Requirements, ECC/HANH will not impose any policy within this Administrative Plan upon any mixed-finance development if such policies would create non-compliance with Tax Credit

Requirements and/or AHP Requirements.

ECC/HANH will not disapprove Owner policies required for compliance with LIHTC and AHP Requirements, unless mandated by PBV Requirements.

- Examples of policies that may differ than the Administrative Plan include the requirement for annual re-certifications (to the extent required by LIHTC Requirements) and different income tier requirements.

In the event of a conflict between any PBV contract requirements and this Administrative Plan, those deal-specific documents shall control as long as in compliance with PBV Requirements.

- “PBV Requirements” refers to 24 CFR HUD regulations, any HUD-approved waivers of regulatory requirements, and federal laws, notices and Executive Orders pertaining to Project-Based Section 8 Units, including future waivers or amendments.

#### **17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

For the RAD PBV program:

This section applies, however, for the RAD PBV program certain standard PBV rules are waived and different rules apply.

This section does not apply to LIHTC.

#### **17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

For the RAD PBV program:

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2-5 of PIH Notice 2014-17. While ECC/HANH is not required to have a written relocation plan, HUD strongly encourages ECC/HANH to prepare one. Appendix I of PIH Notice 2014-17 contains recommended contents for a relocation plan.

In addition, ECC/HANH must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

## **17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

For the RAD PBV program:

ECC/HANH must comply with all applicable fair housing and civil rights laws, including, but not limited to, the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

## **PART II: PBV OWNER PROPOSALS**

This part does not apply to LIHTC.

### **17-II.A. OVERVIEW**

This section does not apply to the RAD PBV program.

### **17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]**

This section does not apply to the RAD PBV program. HUD waives the owner proposal selection procedures at 24 CFR 983.51. HUD selects the RAD properties through a competitive selection process.

#### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

This section does not apply to the RAD PBV program.

#### **ECC/HANH-Owned Units [24 CFR 983.51(e) and 983.59]**

For the RAD PBV program, the following section is amended to read:

For units converting to RAD PBV, housing quality standards inspections must be conducted by an independent entity approved by HUD.

The independent entity that performs these program services may be the unit of general local government for the ECC/HANH jurisdiction (unless ECC/HANH is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

ECC/HANH may only compensate the independent entity from ECC/HANH ongoing administrative fee income (including amounts credited to the administrative fee reserve). ECC/HANH may not use other program receipts to compensate the independent entity for its services. ECC/HANH and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

## **Ownership and Control**

For public housing conversions to PBV under RAD, ownership must be either of the following:

- A public or nonprofit entity satisfies the requirement if it:
  - Holds a fee simple interest in the real property of the RAD project
  - Is the lessor under a ground lease with the Project Owner
  - Has direct or indirect legal authority to direct the financial and legal interest of the Project Owner with respect to the RAD units
  - Owns 51 percent or more of the general partner interest in a limited partnership or 51 percent or more of the managing member interest in a limited liability company with all the powers of a general partner or managing member, as applicable
  - Owns a lessor percentage of the general partner or managing member interest and holds certain controls as approved by HUD
  - Owns 51 percent or more of all ownership interest in a limited partnership or limited liability company and holds certain rights as approved by HUD; or
  - Other ownership and control arrangements approved by HUD.
- A private entity, if the property has low-income tax credits. ECC/HANH must maintain control via a ground lease.

### **ECC/HANH Notice of Owner Selection [24 CFR 983.51(d)]**

This section does not apply to the RAD PBV program.

### **17-II.C. HOUSING TYPE [24 CFR 983.52]**

This section does not apply to the RAD PBV program.

### **17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

This section does not apply to the RAD PBV program.

### **17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]**

For the RAD PBV program:

In the case that ECC/HANH is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the Covered Project(s) at Closing; ECC/HANH may convey all program funds to the Covered Project. HUD will recapture any public housing funds that ECC/HANH has not expended once it no longer has units under ACC. In the case where ECC/HANH will continue to maintain other units in its inventory under public housing ACC, a contribution of Operating Funds to the Covered Project that exceeds the average amount the project has held in Operating

Reserves over the past three years will trigger a subsidy layering review under 24 CFR § 4.13. Similarly, any contribution of Capital Funds, including RHF or DDTF, will trigger a subsidy layering review. Notwithstanding the subsidy layering review, ECC/HANH should be mindful of how the Capital Funds or Operating Reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

## **17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

### **25 Percent per Project Cap [24 CFR 983.56]**

For the RAD PBV program:

There is no cap on the number of PBV units in a Project that may be converted to RAD.

### **Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b)]**

There is no cap on the number of PBV units in a Project that may be converted to RAD.

#### *Family Responsibility to Comply with Supportive Service Plans*

Families selected for occupancy and assistance in a PBV supportive housing unit will be required to enter into an individualized supportive service plan with the service provider. The supportive service plan is intended to help the family:

- Build family self-sufficiency;
- Maintain their housing; and
- To live independently and effectively in their community.

In PBV developments offering supportive services, at least one family member is to receive/participate in the available supportive services.

- At the time of initial lease execution between the family and the owner, the family must sign a statement which includes all family obligations, including the requirement to participate in a supportive service plan. <sup>(L)</sup><sub>(SEP)</sub>
- At the family's annual recertification, ECC/HANH requires written documentation from the service provider indicating the family's continued compliance with the terms of the supportive services plans.
- At ECC/HANH's sole discretion, ECC/HANH may request quarterly documentation of service plan compliance for new participants, or more frequent periodic documentation for families who have not fully complied with their supportive service plan.

The family is eligible to receive assistance while the family is compliant with its supportive services plan. In addition, a family who has occupied a PBV unit and has been compliant with its supportive housing plan, and has successfully completed the supportive housing plan, is eligible to continue to receive PBV assistance so long as the family resides in the unit.

Under RAD, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply.

#### **Promoting Partially-Assisted Projects [24 CFR 983.56(c)]**

This section does not apply to the RAD PBV program.

### **17-II.G. SITE SELECTION STANDARDS**

For the RAD PBV program:

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b) (1) and (c) (2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity, for existing housing sites. If units are transferred to a different housing site, then deconcentration rule applies.

HUD will conduct a front-end civil rights review of PBV RAD conversions that involve new construction that is located in an area of minority concentration (whether on the existing public housing site or on a new site) to determine whether it meets one of the conditions that would allow for new construction in an area of minority concentration.

ECC/HANH must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

### **17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

For the RAD PBV program:

The financing plan includes a requirement for an environmental review. See Attachment 1A of PIH 2012-32, REV-2.

## **PART III: DWELLING UNITS**

### **17-III.A. OVERVIEW**

No changes to this section.

### **17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

No changes to this section for the RAD PBV program.

For the LIHTC program:

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect LIHTC units using HUD's Uniform Physical Condition Standards (UPCS) and State Building Codes.

**Lead-based Paint [24 CFR 983.101(c)]**

No changes to this section for the RAD PBV program.

For the LIHTC program:

While the Lead Hazard Reduction Act of 1992 and certain parts of 24 CFR Part 35 apply to the LIHTC program, requirements listed here for tenant-based assistance programs do not apply to the LIHTC program.

**17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

No changes to this section.

**17-III.D. INSPECTING UNITS**

**Pre-selection Inspection [24 CFR 983.103(a)]**

For the RAD PBV program:

ECC/HANH enters into the HAP contract when financing closes for the property. All units that are undergoing rehabilitation must meet HQS by dates set in the conversion commitment with HUD.

This section does not apply to the LIHTC program.

**Pre-HAP Contract Inspections [24 CFR 983.103(b)]**

For the RAD PBV program:

ECC/HANH enters into the HAP contract when financing closes for the property. All units that are undergoing rehabilitation must meet HQS by dates set in the conversion commitment with HUD.

This section does not apply to the LIHTC program.

**Turnover Inspections [24 CFR 983.103(c)]**

No changes to this section for the RAD PBV program.

This section does not apply to the LIHTC program.

**Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

No changes to this section for the RAD PBV program.

The owner/agent must certify annually that the buildings and units in an LIHTC project were suitable for occupancy.

### **Other Inspections [24 CFR 983.103(e)]**

No changes to this section for the RAD PBV program.

The state of Connecticut's LIHTC compliance manual states that Spectrum will inspect 20% of the units and all common areas in all buildings by December 31<sup>st</sup> of the second year after the last building places in service. Spectrum will notify the owner/agent at least 30 days in advance of the site visit.

### **Inspecting ECC/HANH-Owned Units [24 CFR 983.103(f)]**

No changes to this section for the RAD PBV program.

This section does not apply to the LIHTC program.

## **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

For the RAD PBV program:

This part does not apply to the RAD PBV program. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable. For public housing conversions, an AHAP is not required. Instead, a RAD conversion commitment (RCC) between HUD and ECC/HANH governs the construction work. For requirements for RAD PBV conversions see Notice PIH 2012-32, REV-2.

This part does not apply to the LIHTC program.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

This part does not apply to the LIHTC program.

### **17-V.A. OVERVIEW**

No changes to this section.

### **17-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

For the RAD PBV program:

The PBV RAD program uses the HAP contract for new construction or rehabilitated housing (HUD Form 52530A), as modified by the RAD rider (HUD Form 52621). The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP Contract and effectuates the conversion of public housing to PBV under RAD

PBV. The project must also have an initial RAD Use Agreement. All public housing RAD conversion properties financed with LIHTC are required to include an LIHTC rider.

#### **Execution of the HAP Contract [24 CFR 983.204]**

For the RAD PBV program:

When the conditions of the CHAP and the RCC are met and the conversion has closed, ECC/HANH executes the HAP contract. The HAP contract effective date is the date of the financial closing for the property, whether or not all units meet HQS.

#### **Term of HAP Contract [24 CFR 983.205]**

For the RAD PBV program:

The initial term of the HAP Contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal.

#### ***Termination by ECC/HANH [24 CFR 983.205(c)]***

No changes to this section.

#### ***Termination by Owner [24 CFR 983.205(d)]***

This section does not apply to the RAD PBV program.

#### **Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206]**

This section does not apply to the RAD PBV program.

#### **Remedies for HQS Violations [24 CFR 983.208(b)]**

No changes to this section.

### **17-V.C. AMENDMENTS TO THE HAP CONTRACT**

#### **Substitution of Contract Units [24 CFR 983.207(a)]**

For the RAD PBV program:

In certain mixed finance projects, ECC/HANH may ask HUD permission to have assistance float among unoccupied units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities. For 504 accessible units, assistance may only float to another 504 accessible unit with the same bedroom size and features.

If ECC/HANH chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must

maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

ECC/HANH may not reduce the number of assisted units without HUD approval. Any HUD approval of ECC/HANH's request to reduce the number of assisted units under is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

#### **Addition of Contract Units [24 CFR 983.207(b)]**

For the RAD PBV program:

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

#### **17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]**

For the RAD PBV program, the following is amended to read:

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

#### **17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.210]**

No changes to this section.

#### **17-V.F. ADDITIONAL HAP REQUIREMENTS**

##### **Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]**

This section does not apply to the RAD PBV program.

##### **Vacancy Payments [24 CFR 983.352(b)]**

No changes to this section.

##### **Riders and Amendments**

Various riders amend the PBV HAP contract for RAD conversions. The riders are important component of the RAD HAP contracts, and just like exhibits, must be attached to the contract.

## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.A. OVERVIEW**

No changes to this section.

### **17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

No changes to this section.

#### **In-Place Families [24 CFR 983.251(b)]**

For the RAD PBV program:

For the RAD PBV program, in-place families means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

For the LIHTC program:

The LIHTC program does not recognize protections for existing residents. In order for a unit to qualify as an LIHTC unit, the family must be under the applicable MTSP income limit.

### **17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

For the RAD PBV program:

ECC/HANH must offer families on a public housing site-based waiting list, priority for occupancy at the converted site.

ECC/HANH must maintain the site-based waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv).

ECC/HANH must provide applicants full information about each development including an estimate of the wait time, location, occupancy, number and size of accessible units, amenities like day care, security, transportation and training programs at each development with a site-based waiting list.

The system for selection from site-based waiting lists must be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement or complaint brought by HUD.

ECC/HANH must assess any changes in racial, ethnic or disability-related tenant composition at each ECC/HANH site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, ECC/HANH must use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

Since HANH currently maintains a project-specific waiting list for public housing, a project-specific waiting list will be used after conversion for RAD PBV units. Applicants on the original site-based public housing waiting list will maintain their date and time of

application upon conversion. Applicants will be transferred to the project specific PBV waiting list.

## 17-VLD. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

### Admission Preferences for RAD Project Based Voucher Units

Only elderly families may be admitted to units or buildings covered by a HUD approved Elderly Housing Designation Plan prior to date of conversion to project based rental assistance. The buildings and units covered by a HUD-approved elderly housing designation plan are set forth below.

When there are insufficient Elderly families on the waiting list, Near Elderly families (head or household or spouse ages 50 to 61) may receive a priority for this type of unit if the approved Plan for designation so specified.

The Owner must give preference to Elderly families and Disabled families equally in determining priority for admission to following development that were classified as Mixed Population developments prior to conversion: Charles McQueeney, Fairmont Heights, Ruoppolo Manor, Robert T. Wolfe, and Winslow Celentano. The owner must provide preference for the Elderly for the following units and unit mix at Elderly Designated developments.

### Elderly Designated Unit Mix Prior to Conversion to Project-based Rental Assistance

NUMBER OF BEDROOMS	0	1	2	3	4	5	6	TOTAL
Prescott Bush	20	25	5	0	0	0	0	50
Katherine Harvey Terrace	0	12	0	0	0	0	0	12
Newhall Gardens	0	23	0	0	0	0	0	23
C.B. Motley	8	34	0	0	0	0	0	42
122 Wilmot		25	1					26
<b>TOTAL</b>	28	119	6	0	0	0	0	153

The Owner may not establish a limit on the number of Elderly families or Disabled families who may be accepted for occupancy in a development that was Mixed Population development prior to conversion. In selecting Elderly families and Disabled families to occupy units in mixed population developments, the owner must first offer units that have special accessibility features for persons with disabilities to families who include persons

with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of this Part 24 CFR title).”

### **Waiting Lists for Converted Units**

The Owner shall use the ECC/HANH site based waiting for each developments list used by it prior to conversion for the selection of occupants post-conversion, except for units that have special accessibility features for persons with disabilities who require the accessibility features of such units (see §§ 8.27 and 100.202 of Part 24 CFR).”

Occupants of units with accessibility features shall be selected from

- (1) a current occupant of another unit of the same project, or comparable projects under common control, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not having such features, or, if no such occupant exists, then
- (2) a current occupant of a LIPH, PBV or RAD/PBV unit from the Reasonable Accommodation Transfer List

(2) to an eligible qualified applicant on the Agency wide Accessible Waiting List having a disability requiring the accessibility features of the vacant unit.

With respect to units where preference for occupancy shall be to the elderly or to the elderly and disabled on an equal basis, the Authority shall transfer each site based waiting list to the owner and the Owner shall manage each list in accordance with the Authority-approved resident selection plan. The Owner shall select occupants from these lists until all applicants on these lists shall have been either offered a unit, withdrawn or removed, or rejected for admission. The Owner shall maintain its site based waiting list once these requirements have been met.

### **Income Targeting [24 CFR 983.251(c) (6)]**

For the RAD PBV program:

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements.

This section does not apply to the LIHTC program.

### **Units with Accessibility Features [24 CFR 983.251(c) (7)]**

No changes to this section.

### **Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**

No changes to this section.

For the RAD PBV program:

If the converted project will serve a different population than the one served by the original project, ECC/HANH must obtain written HUD approval.

## **17-VLE. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e) (3)]**

No changes to this section.

### **Disapproval by Landlord [24 CFR 983.251(e) (2)]**

No changes to this section.

### **Acceptance of Offer [24 CFR 983.252]**

#### **TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

##### **ECC/HANH Policy**

The unit offer letter will inform the applicant of the unit being offered. The unit offer letter will include an appointment date and time, to meet with the Property Manager to view the unit. The letter will state that the applicant must accept or reject the unit offer within 3 business days after viewing the unit.

If the applicant does not accept the unit offer within the 3 business day, time limit, the Owner will consider the offer rejected.

Lease-up effective date will be within two weeks of unit acceptance. Extension of the move in date is subject to approval by the Owner. A maximum of a one-week extension will be granted, ensuring that lease-up will take place no more than three weeks after unit acceptance, provided that unit is ready.

## **17-VLF. OWNER SELECTION OF TENANTS**

No changes to this section.

### **Leasing [24 CFR 983.253(a)]**

No changes to this section.

### **Filling Vacancies [24 CFR 983.254(a)]**

No changes to this section.

### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

For RAD PBV:

ECC/HANH may not reduce the number of assisted units without HUD approval. Any HUD approval of an ECC/HANH's request to reduce the number of assisted units under is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

This section does not apply to the LIHTC program.

## **17-VLG. TENANT SCREENING [24 CFR 983.255]**

No changes to this section.

### **Owner Responsibility**

No changes to this section.

## **PART VII: OCCUPANCY**

### **17-VII.A. OVERVIEW**

No changes to this section.

### **17-VII.B. LEASE [24 CFR 983.256]**

No changes to this section.

#### **Form of Lease [24 CFR 983.256(b)]**

No changes to this section.

#### **Lease Requirements [24 CFR 983.256(c)]**

No changes to this section.

For the RAD PBV program:

ECC/HANH must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of PIH 2012-32, REV-2.

#### **Tenancy Addendum [24 CFR 983.256(d)]**

No changes to this section for the RAD PBV program.

This section does not apply to the LIHTC program.

#### **Initial Term and Lease Renewal [24 CFR 983.256(f)]**

No changes to this section.

For the RAD PBV program:

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with — and must be signed on or before — the effective date of the RAD PBV HAP contract.

#### **Changes in the Lease [24 CFR 983.256(e)]**

No changes to this section.

#### **Owner Termination of Tenancy [24 CFR 983.257]**

No changes to this section.

For the RAD PBV program:

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as ECC/HANH's administrative plan. In addition to the regulations at 24CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD

conversions to PBV will require that ECC/HANH provide adequate written notice of termination of the lease which shall not be less than:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, ECC/HANH employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction;
- 14 days in the case of nonpayment of rent; and
- 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the ECC/HANH and the project owner. See Chapter 16

## **PART VIII: TERMINATION OF TENANCY**

This section does not apply to the LIHTC program. Neither the state of Connecticut's LIHTC compliance manual nor the IRS Code discusses termination of tenancy. Termination of tenancy in the LIHTC program must comply with the state of Connecticut's landlord/tenant law. In addition, federal VAWA requirements apply to the LIHTC program.

### ***Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c), FR Notice 11/24/08]***

For the RAD PBV program:

Under RAD, the requirement that a family must actually receive services to reside in a unit where families receive supportive services differs. Families living in units that will convert under RAD must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply.

This section does not apply to the LIHTC program.

### ***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

No changes to this section for the RAD PBV program.

This section does not apply to the LIHTC program.

## **Continuation of Housing Assistance Payments [24 CFR 982.258]**

For the RAD PBV program:

Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, the family will pay with owner an amount equal to their TTP. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, the standard PBV regulations apply to any new families follow this section as written.

This section does not apply to the LIHTC program.

## **Security Deposits [24 CFR 983.259]**

For the RAD PBV program:

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

This section does not apply to the LIHTC program.

## **FSS and ROSS Programs**

Public housing residents that are current FSS participants continue to be eligible for FSS once after conversion. ECC/HANH is allowed to use any remaining PH FSS funds to serve participants living in converted units.

Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the FY15 Appropriations Act), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD. However, ECC/HANH should note that there are certain FSS requirements (e.g. escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and ECC/HANH must follow such requirements accordingly.

ECC/HANH will be required to administer the FSS program in accordance with FSS regulations at 24 CFR Part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100. Further, upon conversion to PBV, already escrowed funds for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents.

This section does not apply to the LIHTC program.

### **Resident Participation & Funding**

Covered Projects with converted PBV assistance have the right to establish and operate a resident organization to address issues related to their living environment and are eligible for resident participation funding. The public housing rules governing resident organizations at 24 CFR 964 do not apply. Funding for resident organizations is \$25 per occupied unit per year for resident participation. These funds come from the property's operating budget, and \$15 of these funds must be provided to legitimate resident organizations. These are defined as organizations that:

- Have been established by the residents of a Covered Project;
- Meets regularly;
- Operates democratically
- Is representative of all residents in the project;
- Is completely independent of the Project Owner, management, and their representatives.

If a legitimate resident organization does not exist, the owner and residents should work together should work together and may form a new resident organization.

This section does not apply to the LIHTC program.

## **17-VIII.A. MOVES**

For the RAD PBV program:

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply to any new families follow this section as written.

For the LIHTC program:

See Chapter 10 **MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY**.

### **Family Right to Move [24 CFR 983.261]**

No changes to this section.

For the RAD PBV program:

Under RAD, ECC/HANH has the option to establish a turnover cap for choice mobility. ECC/HANH must include this policy in the administrative plan if it chooses to adopt a turnover cap. If, as a result of RAD, the total number of PBV units (including RAD PBV units) administered by ECC/HANH exceeds 20 percent of ECC/HANH's authorized units under its HCV ACC with HUD, ECC/HANH may establish a turnover cap. ECC/HANH is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If ECC/HANH chooses to establish a turnover cap and the cap is implemented, ECC/HANH must create and maintain a waiting list in the order requests from eligible households were received.

#### **17-VIII.B. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]**

No changes to this section.

This section does not apply to the LIHTC program.

### **PART IX: DETERMINING RENT TO OWNER**

For the RAD PBV program:

RAD conversions are intended to be cost neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each of ECC/HANH's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, and replacement housing factor funds. The funding may limit the amount of initial rent for a property. Additionally, agencies may bundle rents and MTW agencies have additional flexibilities when setting rents. Notwithstanding HUD's calculation or any flexibility allowed to ECC/HANH in setting rents, contract rents are subject to the statutory and regulatory standard PBV requirements governing contract rents. A detailed explanation of the determination of current funding may be found in Attachment 1C of PIH 2012-32, Rev-2.

This part does not apply to the LIHTC program. In the LIHTC program:

Rents are not income-based. Units qualifying for LIHTC are subject to rent restrictions that set a maximum gross rent that may be charged. The maximum gross rent equals the tenant portion of rent plus the cost of tenant-paid utilities (the utility allowance) and any other non-optional charges. If tenants are overcharged, the unit is in noncompliance and recapture of credits may occur. In units that receive Section 8 (i.e. PBV and HCV) if the

tenant portion of rent increases above the LIHTC maximum gross rent, thereby reducing the Section 8 subsidy, the higher rent may be charged.

#### **17-IX.A. RENT LIMITS [24 CFR 983.301]**

For the RAD PBV program:

Notwithstanding the current funding level, the initial rents are set at the lower of:

- 110% of the fair market rent (FMR) or ECC/HANH's exception payment standard approved by HUD, or the alternate rent cap in an ECC/HANH's MTW agreement
- Reasonable rent in comparison to the unassisted housing market
- An amount determined by current funding
- Adjusted through rent bundling or reconfiguration of units

#### **Certain Tax Credit Units [24 CFR 983.301(c)]**

No changes to this section.

#### **Reasonable Rent [24 CFR 983.301(e) and 983.302(c) (2)]**

No changes to this section.

#### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

For the RAD PBV program:

This section does not apply to the RAD PBV program. For detailed information on setting initial contract rents, see Attachment 1C of Notice PIH 2012-32, REV-2.

#### **Redetermination of Rent [24 CFR 983.302]**

This section does not apply to the RAD PBV program.

#### ***Rent Increase***

For the RAD PBV program:

Unlike in the standard PBV program, in the RAD PBV program, contract rents are adjusted by HUD's operating cost adjustment factor (OCAF) at the anniversary date of the HAP contract (subject to the availability of appropriations for that year). However, contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements;
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to § 983.55 (Prohibition of excess public assistance); or
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the Federal Register
- The reasonable rent

Year 1: Any recertification (interim or annual) performed prior to the second - annual recertification after conversion – 20 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 2: Year 2 annual recertification and any interim recertification prior to year 3 annual recertification – 25 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 3: Year 3 annual recertification and any interim recertification prior to year 4 annual recertification – 33 percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 4: Year 4 annual recertification and any interim recertification prior to year 5 annual recertification – 50percent of the difference between the most recently paid TTP or Flat Rent and the Calculated PBV TTP

Year 5: Year 5 annual recertification and all subsequent recertifications – Full Calculated PBV TTP.

### ***Rent Decrease***

For the RAD PBV program:

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### ***Notice of Rent Change***

For the RAD PBV program:

Rent adjustments are made on the contract anniversary date for all PBV units. Adjusted rents may not exceed the lower of the reasonable rent, or the contract rent increased by the operating cost adjustment factor (OCAF), except if the rent increase would result in a rent below the initial rent. Rents must not fall below the initial contract rent.

### **ECC/HANH Owned Units [24 CFR 983.301(g)]**

For the RAD PBV program, the following is amended to read:

For ECC/HANH-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD.

## **PART X: PAYMENTS TO OWNER**

This part does not apply to the LIHTC program.

### **17-X.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

No changes to this section.

For a discussion of funding during the first year after the conversion for units converting to PBV under RAD, see Notice PIH 2012-32, REV-2.

### **17-X.B. VACANCY PAYMENTS [24 CFR 983.352]**

No changes to this section.

### **17-X.C. TENANT RENT TO OWNER [24 CFR 983.353]**

No changes to this section.

For the RAD PBV program, add:

Once the contract rent is established, the standard PBV rent determination rules apply when calculating the family's share of the rent with one exception.

If an existing tenant's rent increases as a result of a RAD conversion by more than the greater of 10 percent or \$25, the rent increase must be phased in over 3 or 5 years or a combination depending on circumstances. ECC/HANH must establish the length of the phase in period in their administrative plan and must be in place at the time of conversion and may not be modified after the conversion date. Once the tenant's TTP is calculated as equal to or less than the previous TTP (or flat rent, if in Year 1 of the phase-in), the phase-in ends and tenants will pay full TTP from that point forward. For example, if a tenant's previous TTP was \$300 and their new (standard) TTP is reduced to \$200 because of loss of income, the tenant's rent will no longer be phased in.

## ECC/HANH Policy

### Option 1

#### **Three-Year Phase-in:**

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the standard TTP.
- Year 2: Annual recertification and any interim recertification prior to Year 3 annual recertification – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 annual recertification and all subsequent recertifications – Full standard TTP.

### Option 2

#### **Five-Year Phase-in:**

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the standard TTP.
- Year 2: Annual recertification and any interim recertification prior to Year 3 annual recertification – 40% of difference between most recently paid TTP and the standard TTP.
- Year 3: Annual recertification and any interim recertification prior to Year 4 AR – 60% of difference between most recently paid TTP and the standard TTP.
- Year 4: Annual recertification and any interim recertification prior to Year 5 annual recertification – 80% of difference between most recently paid TTP and the standard TTP.
- Year 5 annual recertification- Full standard TTP

#### **Tenant and ECC/HANH Responsibilities**

No changes to this section.

#### **Utility Reimbursements**

No changes to this section.

### **17-X.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

No changes to this section.

#### **Other Charges by Owner**

No changes to this section.