



# MPHA HOUSING CHOICE VOUCHER PROGRAM OPERATING PROCEDURES

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## OVERVIEW AND PURPOSE OF THE OPERATING PROCEDURES

The MPHA Statement of Corporate Policies governs these operating procedures. Per the Statement of Corporate Policies governing the Housing Choice Voucher Program, the following excerpt describes, in part, MPHA's authority under its *Moving to Work Agreement* with the United States Department of Housing and Urban Development to create its own Housing Choice Voucher Program:

### **MOVING TO WORK DEMONSTRATION PROGRAM**

1. *As a Moving to Work agency, Minneapolis Housing Authority will establish, implement and evaluate innovative affordable housing strategies that are designed to achieve greater success in helping low income families achieve economic independence.*
2. *While recognizing that implementation of strategic initiatives may be immediate, progressive, or refined through various activities and demonstration programs, the implementation of those strategic initiatives, not expressly enumerated in Minneapolis Housing Authority's Moving to Work (MTW) Annual Plan, may be advanced, provided such strategic initiatives are consistent with the Statement of Corporate Policies and the spirit and intent of the authorizations under the MTW Agreement.*
3. *Administrative procedures, processes and general management practices for new strategic initiatives shall be developed following the intent of this Statement of Corporate Policies and, upon review and approval, may be amended from time to time at the discretion of Minneapolis Public Housing Authority.*
4. *The Executive Director/Chief Executive Officer of Minneapolis Public Housing Authority, as vested by the Board of Commissioners, can authorize revisions, as appropriate, to this Statement of Corporate Policies in order to clarify the original intent of any policy enumerated herein without the prior approval of the Board of Commissioners, provided that any such revision to this Statement of Corporate Policies does not substantially change the original intent of any policy. Significant changes to major policy provisions in said document must be approved by the Board of Commissioners.*

# A - ELIGIBILITY

## 1.0 ELIGIBILITY REQUIREMENT INTRODUCTION

### 1.1 To be eligible for the Section 8/HCV program the applicant family must:

- Qualify as a family as defined by HUD and by MPHA,
- 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 MPHA's collection and use of family information as provided for in MPHA-provided consent forms,
- Be of legal age (at least 18 years of age),
- Provide all required documents.

MPHA will determine that the current or past behavior of household members does not include activities that are prohibited by HUD or MPHA.

If a family is deemed ineligible or unsuitable for admission, the family will be removed from the waiting list.

### Essential Eligibility Requirements

Essential eligibility requirements include but are not limited to stated eligibility requirements such as:

- Income
- Compliance with selection criteria
- Timely payment of financial obligations
- Care of premises
- No disqualifying criminal or drug activities
- Respect for the rights of others
- Explicit or implicit requirements inherent to the program or activity; and compliance with all obligations of occupancy with or without supportive services provided by persons other than MPHA.
- Reasonable Accommodation - A person may request a reasonable accommodation to meet the essential eligibility requirements. For instance, a mentally ill person whose conduct even with a reasonable accommodation poses a significant risk of substantial interference with the health, safety or peaceful enjoyment of the premises, or would result in substantial physical damage to the property of others, may not be qualified for a project or program lacking the necessary supportive services.

### Applicants for Section 8/HCV Programs

During the application process, MPHA may ask all applicants the same appropriate questions. An applicant is not required to talk about a disability. However, MPHA may ask an applicant to verify a disability if the applicant asks for a reasonable accommodation. MPHA shall not assume that a person has a disability.

An applicant may refuse to explain negative information because it may reveal the existence, nature or severity of a disability. The applicant has the right not to discuss the disability. However, MPHA may have the right to deny admission because of a lack of information or negative information.

If an applicant requests a reasonable accommodation, the applicant has the burden to show that the accommodation is likely to enable the applicant to comply with the lease and that the applicant will accept necessary assistance. MPHA may make it a condition of an applicant's admission to specific project-based communities, Veteran's Administration Supportive Housing (VASH) and the Family Unification Program (FUP) where supportive services are inherent in the eligibility criteria, to accept supportive services. With or without a reasonable accommodation, the applicant shall



complete the application process, meet eligibility criteria and shall comply with program requirements.

## 1.2 Eligible Families

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 section provides information that is needed to define a family and correctly identify family and household members, and to apply HUD's eligibility rules.

### Family

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

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

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

Each family must identify the individuals to be included in the household at the time of application and must update this information if the family's composition changes.

When a family that consists of two families living together applies, such as a mother and father and a daughter with her own husband or children, if they apply as a family unit, they will be treated as a family unit.

### Household

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

### Head of Household

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

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

### Spouse, Co-Head & Other Adult

A family may have a spouse or co-head, but not both.

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

designated as a spouse.

- A co-head is an individual in the household who is equally responsible with the 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 co-head. Minors who are emancipated under state law may be designated as a co-head.
- Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

### Interdependent Relationship or Domestic Partnership

An interdependent relationship or domestic partnership is defined as a committed relationship between two adults, in which the partners:

- Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);
- Are at least 18 years of age and mentally competent to consent to contract;
- Share responsibility for a significant measure of each other's financial obligations;
- Are not the domestic partner of anyone else;
- Are willing to certify, if required by the agency, that they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification.

An interdependent relationship/domestic partnership may exist regardless of actual or perceived sexual orientation, gender identity, or marital status.

### Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family if the dependent lives with the applicant or client family 50 percent (at least 183 days/year) or more of the time. When more than one applicant or participant family is claiming the same dependents as family members, the family with physical custody of the child or children 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, MPHA will make the determination based on available documents such as court orders, an IRS return showing which family has claimed the child for

income tax purposes, school records and/or receipt of benefits on behalf of the child. MPHA will use its discretion when making a determination.

### Dependent

Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance.

A dependent is a family member who is either:

- Under 18 years of age; or
- A person of any age who is a person with a disability; or
- A full-time student up to the age of 24

The following persons **can never be dependents**:

- The head of household, spouse;
- Co-head;
- Foster children;
- Foster adults; and
- Live-in aides

## **Foster Children & Foster Adults**

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Foster Children or adults are considered add on members, not family members, are not included in the voucher size determination during voucher issuance and do not increase a family's voucher size.

## **Foster Children and Foster Adult Verification**

Third-party verification from the state or local government agency responsible for the placement of the foster child or foster adult with the family is required.

## **Full-Time Student**

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

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or co-head, 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.

## **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 at least 50 years of age but below the age of 62.

## **Elderly Family**

An elderly family is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance.

## **Remaining Member of a Tenant Family**

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, foster adults, and household add-ons 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 the section on "Caretakers for a Child."

## **Guests**

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 and is in compliance with the lease agreement

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 30 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, 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.

### 1.3 Income Limits & Eligibility

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.

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

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

- • 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.
- • 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.
- • 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.
- • 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 that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR §248.173.

### 1.4 Citizenship & Eligible Immigration Status

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with MPHA'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 of Citizenship:

HUD requires Each family member must declare whether the individual is a citizen, a national, or an eligible non- citizen, or an individual except those members who elects not to contend that they have eligible immigration status. No declaration is required for live-in aides, foster children, or foster adults.

For citizens, nationals and eligible non-citizens the HUD Form 214 Declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors.

The family must identify in writing any family members who elect not to contend their immigration status. (see

Ineligible Noncitizens (Ineligible Noncitizens below).

### **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. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the 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.

### **Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S.,

the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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].

### **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 9 for a discussion of how rents are prorated, and Chapter 15 for a discussion of informal hearing procedures.

### **Ineligible Families**

The PHA will not provide assistance to a family before the verification of at least one family member.

When a PHA 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 30 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 the PHA. The informal hearing with the PHA 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 15.

## **1.5 Disclosure Requirements**

Applicants/Participants must provide truthful, accurate, and complete information upon request from MPHA including but not limited to the following:

- Income
- Household composition
- Criminal history
- Employment status
- Education and training status
- All background information required by and provided to MPHA

If any information is reported falsely, the application may be denied and Participants may be terminated from the HCV Program.

All household members 18 years of age and older must sign an Authorization for Release of Information/Privacy Act to approve the release of information requested by the HCV Program. Information that is obtained directly from Applicants/Participants, or from those persons authorized by Applicants/Participants, will be used only for purposes relating directly to the administration of the HCV Program and other MPHA housing assistance programs. The Authorization for Release of Criminal Activity/Privacy Act is used for authorization for criminal background screening for all members of the household including those 18 years of age and older.

### 1.6 Final Notice of Eligibility

If the family is eligible for assistance, MPHA will notify the family in writing and schedule an appointment to attend a New Admission Appointment.

If MPHA determines that a family is not eligible for the program for any reason, the family will be notified of a decision to deny assistance.

## 2.0 [INTRODUCTION](#)

### 2.1 Waiting List Applicants

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

In addition, HUD imposes requirements on how MPHA 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.

### 2.2 Applying for Assistance

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides MPHA with the information needed to determine the family's eligibility. When HCV assistance becomes available, MPHA will select families from the waiting list in accordance with HUD requirements and MPHA policies as stated in the Statement of Corporate Policies, HCV Operating Procedures, and approved MTW plans.

MPHA 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 MPHA 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 MPHA affirmatively further fair housing goals in the administration of the program. Adherence to the selection procedures described in this chapter ensures that MPHA will be in compliance with all relevant fair housing requirements.

### 2.3 Opening the Waiting List

When the waiting list is open for a finite period of time, MPHA will notify applicants of the method for submitting applications and ordering applications on the wait list.

MPHA 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. MPHA will give public notice by publishing the relevant information in suitable media outlets.

### 2.4 Local Preferences

MPHA may establish local preferences and give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits MPHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with MPHA's HCV Statement of Corporate Policies and the consolidated plan and will be based on local housing needs and priorities that can be documented by generally accepted data sources.

#### Local Preferences – 2008 Waiting List Opening

MPHA established the following local preferences for the 2008 waiting list opening:

- A. Homeless or living in substandard housing such as a unit without working plumbing, electricity or unsafe conditions or lacking a rental license if required by the City of Minneapolis.
- B. Rent burdened by paying more than 50% of their income for rent and utilities for more than 90 days prior to selection from the waiting list.
- C. Residency preference: This preference is given to applicants whose head of household or spouse lives in the City of Minneapolis. Applicants who are working or who have been notified that they are hired to work in the City of Minneapolis will be treated as residents of the residency preference area.
- D. Families who are victims of domestic abuse under MPHA's VAWA Policy. See VAWA Policies.
- E. Veterans or members of the armed services. ("Veteran" for purposes of qualification for this preference, means any person honorably discharged from the Armed Forces of the United States after serving for 181 consecutive days or more.)
- F. Working Preference. Families with at least one adult who is employed at least 40 hours per week. This preference is automatically extended to elderly and disabled families whose head, co-head or spouse is receiving income based on their inability to work.
- G. Notice to Vacate by the City of Minneapolis; Families who have been given notice by the City to vacate an apartment and did not know of the issues that led to the order to vacate. The family must show that:
  - a. They were permanent and approved resident(s) of the property;
  - b. The applicant or any member of his/her household was not responsible for nor substantially contributed to any of the issues that led to the order to vacate; and
  - c. The conditions that led to the condemnation or other orders to vacate the property could not have been evident at the time that the applicant and his/her family moved into the apartment;

#### Preference Verification

##### Homeless or Living in Substandard Housing

Verification for the Homeless or Living in Substandard Housing preference includes the following:

- Written verification by a government agency that such housing is substandard;
- Written certification by a public or private facility providing shelter, the police, or a social services agency to certify homelessness;
- Proof of current address along with proof that the unit does not have a rental license; or
- Letter from shelter or transitional facility stating that one of the adult household members currently uses the shelter's overnight facilities located in Minneapolis. Letter must contain a date later than that listed on the screening interview appointment letter and must be on official letterhead.
- If an applicant was previously in a Minneapolis facility; however, was forced to relocate to another facility, the applicant is still eligible provided that the applicant can obtain a verification letter to confirm these circumstances.

### Rent Burdened

Verification for the Rent Burdened preference includes the following:

- Verification of income, the amount of rent and utilities the applicant has been obligated to pay for the past 90 days;
- Copies of rental receipts/the lease/canceled checks/money orders;
- In cases where the family pays rent to a co-renter or sublets the unit, a certification from the person who receives the money from the applicant, and verification from the owner that the family resides in the unit;
- To verify the amount due to amortize the purchase price of a manufactured home, copies of the most recent payment receipts, canceled checks or money order receipts, and a copy of the current purchase agreement;
- Copies of bills showing previous utility payments; or
- Written verification of consumption costs directly from the utility or service supplier. In the event the actual cost of utilities cannot be verified, MPHA will use utilities its Section 8 Existing utility allowance schedule.

### Residency Preference

Please note that the residency preference is households where the head, co-head or spouse lives, works or is hired to work in Minneapolis. Verification for a Residency preference includes the following:

- Utility bill dated within the last 60 days in the name of the head, co-head or spouse member's names and containing a Minneapolis address;
- Identification or other document issued by the federal, state, or local government with the Minneapolis address listed (i.e. driver's license, passport, voter registration card). The document must not be expired;
- Current signed lease containing the name of the head, co-head or spouse. If the lease term is not current, applicant must provide letter from the current landlord stating the applicant still resides in the unit;
- Copy of a paystub issued within the last 60 days which includes the employer's Minneapolis address;
- Letter from employer verifying the applicant's employment with the company. Letter must be on official letterhead and state the applicant works at a company facility located in Minneapolis;
- Letter of hire from employer verifying that the applicant will be employed by the company. Letter must be on official letterhead and state the hire date and confirm that the applicant will work at a company facility located in Minneapolis. Employment must begin within 60 days from the date of the letter;
- Third party written verification form sent by MPHA and returned by the employer to confirm current or impending Minneapolis employment; or
- Oral Verification from the employer to confirm employment or impending employment in Minneapolis.

### Domestic Violence

Verification for the Domestic Violence preference includes the following:

- A certification form approved by MPHA that states that the applicant is a victim of domestic violence, dating



violence, stalking, or sexual assault, that the incident of domestic violence, dating violence, stalking, or sexual assault is grounds for VAWA protections and that includes the name of the individual who committed the domestic violence, dating violence, sexual assault or stalking, if the name is known and safe to provide;

- A Federal, State, tribal, territorial, local police record, court record or administrative agency record; or
- Documentation signed by the applicant AND an employee or representative of a victim services provider, or social services provider, or an attorney, school personnel, or medical professional, from whom the victim has sought assistance as a result of the abuse, in which the professional attests under penalty of perjury that the applicant or tenant believes that the incident/abuse is grounds for protection under VAWA.

### **Veteran's Preference**

Verification for the Veteran's preference includes the following provided that the period of service is for 181 or more consecutive days:

- Copy of an honorable discharge form which documents service dates. Service date must include one of the following:
- Mexican Border Period: May 9, 1916, through April 5, 1917, for veterans who served in Mexico, on its borders or in adjacent waters.
- World War I: April 6, 1917, through Nov. 11, 1918; for veterans who served in Russia, April 6, 1917, through April 1, 1920; extended through July 1, 1921, for veterans who had at least one day of service between April 6, 1917, and Nov. 11, 1918.
- World War II: Dec. 7, 1941, through Dec. 31, 1946.
- Korean War: June 27, 1950, through Jan. 31, 1955.
- Vietnam War: Aug. 5, 1964 (Feb. 28, 1961, for veterans who served "in country" before Aug. 5, 1964), through May 7, 1975.
- Gulf War: Aug. 2, 1990, through a date to be set by law or Presidential Proclamation.
- Letter from Veteran's Administration stating that the applicant is either a veteran who served during a wartime period defined above. Letter must be on VA letterhead, include the contact information from the VA representative;
- Third party verification form sent to the Veteran's Administration verifying that applicant is a veteran who served during a wartime period defined. Letter must be on VA letterhead, include the contact information of the VA representative; or
- Oral verification form the Veteran's Administration to obtain and confirm information above.

### **Working Preference**

Verification for the Working preference includes the items outlined below. As elderly and disabled households are automatically eligible for this preference, age and disability verification may be required. In order to qualify at least one adult family member must working at least 40 hours per week. Verification of the Working preference includes:

- Copy of a paystub issued within the last 60 days which includes the employer's Minneapolis address;
- Letter from employer verifying the applicant's employment with the company. Letter must be on official letterhead and state the applicant works at a company facility located in Minneapolis;
- Letter of hire from employer verifying that the applicant will be employed by the company. Letter must be on official letterhead and state the hire date and confirm that the applicant will work at a company facility located in Minneapolis. Employment must begin within 60 days from the date of the letter; or
- Third party written verification form sent by MPHA and returned by the employer to confirm current or impending Minneapolis employment.

MPHA will not deny a local preference, nor otherwise exclude or penalize a family in admission to the program, solely because the family resides in public housing.

Local preferences will be aggregated using the following system: each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list. Preferences A thru F each have a value of 1 point.

#### **Local Preferences – 2019 Waiting List Opening**

MPHA established the following local preferences for the June 12, 2019, waiting list opening:

The Minneapolis Public Housing Authority will place 2,000 applicants on the waiting list through a random drawing from all applications received. The housing authority will award 95% of waiting list placements to applicants who live, work, or attend school in Minneapolis. The remaining 5% of waiting list placements will be awarded to any other applicant. The residency preference does not have the purpose or effect of delaying or otherwise denying admission based on race, color, ethnic origin, gender, religion, disability, or age of any member of the applicant family.

#### **Preference Verification**

MPHA will not verify residency in Minneapolis again when an applicant is selected off the wait list. The self-certification by the applicant during the application process will be considered sufficient verification.

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

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

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

Applicants will verify their waiting list placement status via a phone system for the 2008 waiting list opening and an online system for the June 2019 waiting list opening.

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 according to any preference for which they qualify, and the date and time their complete application is received by the PHA or as a result of a lottery or random drawing for waiting list placement by date and time as specified in a public notice.

Other forms of communication will be considered under extenuating circumstances or as a reasonable accommodation for persons with disabilities.

Based upon the length of time an applicant may need to wait to receive assistance, MPHA will either make an initial assessment of the family's eligibility and then conduct full eligibility screening when selected from the waiting list or MPHA will conduct full eligibility screening at the time of application.

Project Based participants will be placed on a separate waiting list. As tenant-based vouchers become available, Project Based Applicants will be issued twenty percent (20%) of the available vouchers.

Refer to LEP and Reasonable Accommodation Appendix for MPHA's plan to provide meaningful access to all its programs and activities.

#### **2.7 Waiting List Notification**

MPHA maintains waiting lists to determine priority of placement into the HCV program. An applicant's placement on the waiting list is generally determined by the date and time of application. MPHA maintains a single waiting list for the tenant-based HCV program. Owners of Project- Based program developments maintain their own Site Based Waiting Lists.

When the waiting list is open for a finite period of time, MPHA, or a contracted third party, will notify applicants of the method for submitting applications and ordering applications on the wait list.

MPHA will comply with all Fair Housing and Equal Opportunity requirements applicable to public notices announcing the opening and closing of the Program waiting list ("Waiting List") for a Housing Choice Tenant-Based Voucher ("Voucher").

MPHA will make reasonable efforts to provide adequate notification to potential applicants with respect to applicant eligibility, the period of the opening, reasonable accommodations and LEP assistance opportunities and other details related to the acceptance of applications to the Waiting List as set forth in the Operating Procedures.

## 2.8 Organization of The Waiting List

MPHA's HCV waiting list will be organized in such a manner to allow MPHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this manual.

MPHA maintains a single waiting list for the HCV program and may not merge the HCV waiting list with the waiting list for any other program MPHA operates.

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 MPHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

A family's decision to apply for, receive, or refuse other housing assistance will not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify. HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

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

- Applicant name;
- Family size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.
- Gross Annual Income

## 2.9 Selection for HCV Assistance

MPHA will determine the preferences for the selection method and maintain a clear record of all information required to verify that the family is selected from the waiting list according to MPHA's selection policies. As vouchers become available, families will be chosen by any selection preferences for which the family qualifies. The availability of targeted funding may also affect the order in which families are selected from the waiting list.

### Order of Selection and Notification

The PHA 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 MPHA 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)].

MPHA may admit a family who is displaced due to a federally declared disaster who is not on the waiting list or without considering the family's position on the waiting list. The family must complete an application form within 90 days from the date of the disaster declaration to be considered for admission.

Families will be selected from the waiting list based on the targeted funding, special housing initiatives, special preferences for which they qualify, income targeting requirements, and date and time of application (if applicable).

MPHA will notify the family by first class mail when it is selected from the waiting list.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, applicants will be selected based their preference, date and randomly assigned time.

Documentation will be maintained by MPHA as to whether families on the list qualify for targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a

notation maintained so that MPHA does not have to ask higher placed families each time targeted selections are made.

### Notification of Selection

When a family has been selected from the waiting list, MPHA will notify 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; and
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

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

### Targeted Funding

MPHA will conduct outreach as necessary to ensure that MPHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted. MPHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in MPHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

### Family Outreach

Because HUD requires MPHA to admit a specified percentage of extremely low-income families to the program, MPHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance.

MPHA outreach efforts will 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
- MPHA outreach efforts will 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

## Income Targeting Requirement

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

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act, 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.

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.

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.

HUD may award MPHA funding for a specified category of families on the waiting list. MPHA will use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, MPHA 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 this Plan.

MPHA will monitor progress in meeting the income targeting requirement throughout the fiscal year.

## Special Housing Initiatives (SHI)

MPHA, in its discretion and with the consent of the Executive Director/CEO, may authorize the special admission of eligible and qualified applicants to the Program, in order to implement special initiatives; offer homeownership opportunities to eligible households; admit households impacted by an owner opt-out of a housing assistance contract on a HUD-insured multi-family development; and/or address an urgent local need as determined and approved by MPHA including, but not limited to, foreclosure assistance and natural disasters, assistance to eligible victims of domestic violence pursuant to the Violence Against Women Act, pilot programs for at-risk populations, relocation activities and mitigation of displacement related to real estate development initiatives.

Special admissions may also be approved, as a reasonable accommodation, for transfer assistance to an eligible and qualified person with a verifiable disability who resides in an MPHA-Owned Community or whose name is on a transfer/waiting list to be assisted who requires a UFAS Accessible Unit. Additionally, The Executive Director has the authority to allocate vouchers for specialized programs that meet the goals of the mission of MPHA.

Any household eligible for a special admission, as determined by MPHA, may not be denied a Voucher for admission to the Program provided that no member of the household has committed an offense specifically identified in MPHA's HCV criminal background policies.

MPHA, in its discretion, may deny special admission to a household if any of their household members are or have been engaged in criminal activity that could reasonably be expected to indicate a threat to the health, safety or welfare of others, including other residents, MPHA and its staff, Owners/Landlords, and/or Management Agent staff.

Other eligibility requirements specific to the special admission program, procedures, processes and general management practices for special admissions will be outlined in these Operating Procedures.

## 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 this Plan.

## **2.10 Purging the Waiting List**

The equitable methods of processing Applicants on the Waiting List and the processes for organizing, updating and maintaining Applicant records are set forth in the Operating Procedures. MPHA, in its discretion, may establish reasonable procedures related to the Waiting List, including but not limited to procedures for reevaluating the reliability of waiting list information provided by Applicants, exploring alternative strategies for the selection of Applicants (including the implementation of residency and other local preferences) and setting the requirement that Applicants on the Waiting List must notify MPHA of their interest within a specified period of time in order to remain on the Waiting List.

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

The family's response must be in writing and be delivered by mail or by fax before the stated deadline. If the family fails to respond by the stated deadline, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, MPHA may reinstate the family if it is determined that the lack of response was due to MPHA error, applicant need based on a reasonable accommodation or to circumstances beyond the family's control. MPHA may reinstate the family if the applicant makes contact with MPHA within one year of the date the record was withdrawn.

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a MPHA request for information or updates and MPHA determines that the family did not respond because of the family member's disability, MPHA will reinstate the applicant family to their former position on the waiting list.

The waiting list will be updated periodically to ensure that all applicants and applicant information is current and timely.

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

If a family is removed from the waiting list because MPHA has determined the family is not eligible for assistance, a notice will be sent to the family's address recorded with MPHA. The notice will state the reasons the family was removed from the waiting and will inform the family how to request an informal review of MPHA's decision. See policies on INFORMAL REVIEWS & HEARINGS.

### **Reporting Changes in Family Circumstances**

While the family is on the waiting list, the family must immediately inform MPHA of changes in mailing address, phone/email, or preferences. The changes must be submitted in writing by completing the "Waitlist Applicant Update Form." The form is available on [mphaonline.org/section-8/applicants/](http://mphaonline.org/section-8/applicants/) or at the MPHA HCV office.

### **Family Break-Up or Split Households While On The Waiting List**

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

if the waiting list is open.

In the absence of a judicial decision, or an agreement among the original family members, the original head of household will retain the application date. Exceptions to the policy will be made on a case-by-case basis, and may include consideration of the following factors:

- The interest of any minor children, including custody arrangements,
- The interest of any ill, elderly, or disabled family members,
- The interest of a 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;
- Any possible risks to family members as a result of criminal activity; and
- The recommendations of social service professionals.

#### **2.12 Voluntary Withdrawal from Waiting List**

An Applicant on the waitlist may choose to voluntarily withdraw his/her name from the waitlist. The Applicant must submit the request in writing stating that he/she wants to be removed from the waitlist.

#### **2.13 Reinstatement Process**

If an Applicant is determined by the Director or Assistant Director of HCV to have been incorrectly removed from the waitlist, the Director or Assistant Director of HCV may elect to have the Applicant reinstated. If this occurs, the Applicant will be notified in writing.

#### **2.14 Handling Wait List Inquiries**

Applicants may utilize an automated system by calling 612-342-4404 to verify their status on the HCV waiting list. Instructions for using the system can be found at [www.MPHAONLINE.org](http://www.MPHAONLINE.org).

#### **2.15 Applicants Already Receiving MPHA or HUD Rental Assistance**

MPHA will not allow lease-up of a household in multiple MPHA or HUD-assisted programs at the same time. Residents of MPHA-owned Residential, Project-Base Rental Assistance, and other HUD-subsidized units who are selected from the HCV Waiting List must fulfill the obligation of their existing leases before they are issued a Housing Choice Tenant Based Voucher. Exceptions may be given to Residents who demonstrate a related hardship or a mutually agreed upon early lease termination between the Resident/Applicant and Landlord. After an Applicant is selected from the HCV Waiting List and it is determined they reside at an MPHA Owned Residential, PBRA, or HUD- subsidized units, MPHA will not immediately screen their eligibility. The Applicant must provide documentation of the lease end date or termination of the lease. MPHA will coordinate the timing of the Eligibility process to ensure the applicant's move-in date will not supersede the lease end date. The Applicant selected from the HCV Waiting List will be placed on hold for admissions until the eligibility determination process begins. MPHA will monitor and coordinate a timely eligibility screening process. Applicants who are contacted by mail by MPHA that their eligibility determination process has started and who fail to respond within 30 days of the date of the letter, will be determined ineligible for admission.

#### **2.16 Reasonable Accommodations**

The PHA must comply with its Reasonable Accommodation Policy and Limited English Proficiency Policy (LEP), to make the application process accessible to disabled applicants or applicants who need language assistance.

MPHA will take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard MPHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency [LEP]. See policies in Appendix C for the REASONABLE ACCOMMODATIONS POLICY and Appendix B for the LIMITED ENGLISH PROFICIENCY (LEP) PLAN.

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.

### 3.0 INBOUND PORTABILITY APPLICANTS

#### **3.1 Intake and Eligibility**

All inbound ports must meet the eligibility criteria for other MPHA program applicants outlined by the Eligibility section of the Operating Procedures. Inbound ports must pass a MPHA background check and clear through the debts owed report. Inbound ports may have passed a background check with the initial HA (Housing Authority), but that does not guarantee all members will pass the MPHA background check. MPHA may request additional information not included in the portability paperwork sent by the initial HA to verify eligibility.

If a family is denied portability due to not meeting eligibility criteria the technician will mail a "Portability Denial Letter" to both the applicant and initial HA. The family's portability paperwork will be sent back to the initial HA as well. If the family is denied portability the family can request an informal review to dispute the portability denial. If the family is approved, they are scheduled for a portability briefing and voucher issuance.

#### **3.2 Voucher Issuance & Briefing - Inbound Ports**

Inbound ports must attend the portability briefing and an in-person voucher issuance appointment. If the family misses a scheduled briefing, they will be scheduled for a 2nd. If the family fails to attend the 2nd briefing they will be denied portability and their paperwork will be sent back to the initial HA.

For inbound ports, the voucher is issued by MPHA using the same dates as the voucher issued by the initial HA. All adult household members must attend the voucher issuance and provide the proper verifications for new applicants stated in the Verifications section of the Operating Procedures.

Local ports that are sent with an RTA, will have the income used to determine affordability at the initial HA, as the income for lease-up with MPHA. Affordability must meet MPHA's rent burden policy to be approved. Any changes in income for newly admitted inbound ports will be made effective the month following the lease up month.

#### **3.3 Extensions and Cancellations – Inbound Ports**

Extensions for an initial port in family need to be requested from the initial HA so the receiving HA billing deadline is also extended.

If the family fails to submit an RTA by the voucher expiration date, the paperwork is returned to the initial HA.

#### **3.4 Billing and Administration – Inbound Ports**

52665's and 50058's will be sent to the IHA by the HUD billing deadlines for Initial Lease Up; annual recertification; interim; move outs and unit transfers.



## B - ADMISSIONS SCREENING & VERIFICATION

### 4.0 APPLICANT INTAKE PROCESS

#### 4.1 Initial Eligibility Process

Families selected from the waiting list are required to participate in a New Admission Intake interview. The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, MPHA will provide the family with a written list of items that must be submitted. 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.

An Applicant desiring to participate in the Program must complete a full application in accordance with the Operating Procedures and demonstrate that: (a) Applicant meets one of the definitions of Family; (b) Applicant's total household income verified for the initial eligibility determination does not exceed the "Very Low-Income" limit published by HUD for the household size; (c) Applicant fully satisfies applicable statutory and HUD's regulatory requirements for citizenship and/or eligible immigrant status; (d) Applicant has an acceptable criminal background record; and (e) Applicant is able to comply with all Program obligations.

### 5.0 ELIGIBILITY SCREENING

#### 5.1 Introduction

The head of household and all adult household members must attend the interview together. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to MPHA. Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability. Being invited to attend an interview does not constitute admission to the program.

The head of household or spouse/co-head must provide acceptable documentation of legal identity (Government issued photo ID, Social Security Card, passport, green card, etc.). If the family representative does not provide the required documentation, at the time of the interview, he/she will be required to provide it within 10 business days.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if MPHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by MPHA.

Any required identification or immigration status documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. See VERIFICATION OF U.S. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS for policies on document requirements for verifying eligible immigration status. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. MPHA will provide the applicant family with free interpreter service as requested.

Interviews will be conducted in English. For Limited English Proficient (LEP) applicants, MPHA will provide free language assistance may be provided in accordance with MPHA's LEP Plan.

If the family is unable to attend a scheduled interview, the family should contact MPHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, MPHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled

interviews without MPHA approval, or an approved reasonable accommodation, will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued.

MPHA will conduct eligibility screening per the policies in the chapter on Eligibility. Verify all information provided by the family. Based on verified information, MPHA will make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

If MPHA determines that the family is ineligible, MPHA will send written notification of the ineligibility determination within 30 calendar days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review.

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, preference level, extremely low-income), the family will be returned to its original position on the waiting list. MPHA will inform the family that it has been returned to the waiting list and will specify the reasons for it.

If MPHA determines that the family is eligible to receive assistance, MPHA will notify and invite the family, within 10 business days of eligibility approval, to attend a New Admission Intake appointment in accordance with the HCV Operating Procedures.

## **5.2 Criminal Background Check**

When a household member will turn 18 between the date of eligibility determination, but on or before the effective date of lease-up, MPHA will have a parent/legal guardian sign the consent for criminal background check on behalf of that household member in order to authorize MPHA's criminal background check.

Every adult applicant and participant, including port-in participants, shall provide MPHA with a consent form signed by each adult household member to permit MPHA to obtain criminal records.

MPHA will perform a criminal history background check to determine if any household member has engaged in any drug-related criminal activity; any violent criminal activity; or any other criminal activity that would threaten the health, safety, welfare, or right to peaceful enjoyment of other residents, the owner, or MPHA staff, contractors or subcontractors. MPHA's request for criminal records will also include registered sex offender status as authorized under the authority of United States Code 13663, to prevent dangerous sex offenders to federally assisted housing.

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists MPHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities.

MPHA will perform a criminal background check through an independent contracted service for every person 18 years of age or older at intake, when a new adult is added to the household and whenever MPHA has a reasonable belief that a participant has engaged in fraudulent or criminal activity.

MPHA will conduct a criminal history background check to determine whether any household was convicted of drug related criminal activity for methamphetamine production on the premises of any federally assisted housing. If the records indicate criminal activity MPHA will determine eligibility based upon MPHA's applicant screening guidelines.

MPHA has no liability or responsibility to property owners, managers or other persons for the family's behavior or conduct while in tenancy. Property owners and managers are responsible for screening tenants.

MPHA shall pay for the costs of obtaining the criminal records; however, applicants and participants shall pay for the costs of other records or other documents that they obtain to use to refute the accuracy of the records presented by MPHA.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In addition, MPHA may also consider:

- Police reports detailing the circumstances of the arrest;
- Witness statements and any statements made by witnesses or the applicant not included in the police report;
- Criminal background checks for drug-related or violent criminal activity of household members within the past three years;
- Any record of evictions for suspected drug-related or violent criminal activity of household members within the past three years;
- Whether criminal charges were filed;
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal;
- 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. MPHA 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; and/or
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

#### Criteria for Deciding to Deny Assistance

MPHA will ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. MPHA uses convictions, not arrest records, to determine that an individual has engaged in criminal activity. MPHA may deny admission based upon the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and MPHA has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, will be the relevant factor for admissions and tenancy determination. Reliable evidence of a conviction may be the basis for determining that disqualifying conduct occurred.

Families are provided an opportunity to dispute the accuracy and relevance of a criminal record before admission or assistance is denied on the basis of such record. If MPHA proposes to deny assistance based on criminal record information, MPHA will notify the household of the proposed action and will make the record available to the applicant. The applicant will have an opportunity to dispute the accuracy and relevance of the information through the informal review process.

If the criminal record check (CRC) identifies a pending criminal investigation, MPHA will suspend the eligibility determination until the criminal investigation is completed. MPHA will notify the applicant concerning their suspended eligibility status and request that the applicant notify MPHA when the investigation is complete, at which time MPHA will apply its eligibility and screening policies in making a final eligibility determination.

Criminal record checks will be considered current for a period of one year. If lease up (for new applicants) is not effective within one year from the date the CRC was run, a new CRC will be required.

If MPHA previously denied admission to an applicant because a member of the household engaged in criminal activity, MPHA may reconsider the applicant if MPHA has sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period before the admission decision. MPHA would have "sufficient evidence" if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which MPHA verified.

While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant engaged in disqualifying criminal activity. As part of its investigation, MPHA may

obtain the police report associated with the arrest and consider the reported circumstances of the arrest.

### **Project-Based Criminal Record**

Within the Project-Based Voucher Program there may be housing communities that provide housing and services to individuals and families who have criminal histories and/or other related conduct (with exception of lifetime registered sex offenders and applicants convicted of drug related criminal activity for methamphetamine production on the premises of federally assisted housing).

Where a specific Project-Based Voucher housing community allows for participants with criminal histories and/or other related conduct and the applicant or participant meets all other MPHA and MPHA's partner requirements for eligibility, MPHA may permit participation in the specific Project Based Housing Program. If, after one year of participation, the individual or family wants to obtain a tenant-based voucher, the individual or family shall qualify under MPHA Applicant Screening Guidelines like all applicants on MPHA's tenant-based voucher waitlist.

### **Record Maintenance:**

MPHA may use criminal records to screen applicants, to terminate assistance or in court or administrative hearings. MPHA will not place the criminal records in the participants' files. MPHA will disclose the records to MPHA's officers or employees or authorized representatives or persons who have a job-related need for the information. If MPHA discloses the criminal records in a judicial proceeding, MPHA is not responsible for controlling access to or knowledge of the records after the disclosure.

### **Sex Offender Screening**

MPHA will perform a search for registered sex offenders as part of the criminal background check done through an independent contracted service to screen applicants for admission.

Additionally, MPHA will 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.

If the MPHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, MPHA will notify the household of the proposed action and will provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.

MPHA will destroy the criminal records and sex offender records after MPHA's purpose for which the records were requested is accomplished and all applicable statutes of limitations have run.

### **Removal of a Family Member from Application**

Should MPHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, MPHA will 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, MPHA will deny admission to the family.

For other criminal activity, MPHA may permit the family to exclude the culpable family members as a condition of eligibility. As a condition of receiving assistance, a family must agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to reside in the assisted unit. After admission to the program, the family must present evidence of the former family member's current address (if known) upon MPHA request.

Appendix E includes a chart detailing specific drug and criminal offenses and MPHA's time frame for denial based on the timeframe between conviction and screening. In making determinations related to eligibility for admission to the

program, MPHA will use the criminal background screening policies in concert with the Chart of Offenses.

If a tenant is terminated or voluntarily leaves the program and re-applies, the applicant (former tenant) will be subject to all MPHA required screening elements to determine eligibility and suitability for the program.

### 5.3 Violence Against Women Act (VAWA)

#### Overview

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If and when state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

#### VIOLENCE AGAINST WOMEN ACT 2013 (VAWA)

Definitions as used in VAWA:

**Bifurcate:** 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.

**Dating Violence:** 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

**Domestic Violence:** The term domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Affiliated Individual:** The term affiliated individual means, with respect to a person:

- A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
- Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

**Sexual Assault:** 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

**Stalking:** 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.

#### Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA does not limit MPHA's authority to deny assistance to an individual or household that is not otherwise qualified or eligible for assistance.

## Prohibition Against Termination of Assistance Related to Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, engaged in by a member of a tenant's family or any guest or other person under the tenant's control will not be the basis for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's household is the victim or threatened victim of that domestic violence, dating violence, sexual assault or stalking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed either as serious or repeated violations of the Lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Notwithstanding the foregoing, MPHA may exercise its authority to terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against household members or others without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

MPHA may exercise its discretion to terminate the assistance of a tenant or lawful occupant who perpetrates such violence against victims or affiliated individuals by removing them from the household composition.

Further, MPHA retains its authority to terminate the assistance of any tenant if MPHA concludes that there is an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant

is not terminated from assistance. VAWA does not limit MPHA's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

MPHA may terminate a tenant's assistance for any violation of the Lease and eviction from the unit not premised on the kinds of violence described above, as long as MPHA refrains from subjecting a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than applied to other tenants facing termination of assistance. VAWA does not limit MPHA's authority to deny or terminate assistance to an individual or family that is not otherwise qualified or eligible for assistance.

Notwithstanding the protections provided to tenants under VAWA, MPHA will:

- Comply with court orders that address the rights of access to or control of property, including civil protection orders issued to protect victims of domestic violence, dating violence, sexual assault, and stalking; and
- Comply with court orders that address the distribution or possession of property among members of a household

In the event MPHA terminates assistance to an individual by removing them from the household composition, MPHA will refrain from penalizing the victim of such criminal activity who is a tenant or lawful occupant. MPHA will also provide any remaining family members an opportunity to establish eligibility for continued occupancy, if the individual removed from the household composition was the sole tenant eligible for housing assistance. Tenants will have 90 calendar days from the date of the removal of the individual to establish eligibility. If a tenant is unable to establish eligibility, MPHA may provide tenant a reasonable time, not to exceed 60 days, to find new housing.

This policy permits MPHA to provide emergency transfer vouchers to victims of domestic violence, dating violence, sexual assault and stalking if the tenant expressly requests the transfer and the tenant reasonably believes that he/she is threatened with imminent harm from further violence if the tenant remains in the unit. In the case of a tenant who is the victim of sexual assault, an emergency transfer may be provided if the individual reasonably believes there is a threat of imminent harm from further violence if they remain in their unit or if the sexual assault occurred on the premises during the 90-day period preceding the request for a transfer. Applicants requesting an emergency transfer must complete the emergency transfer certification form approved by HUD (Form HUD-5383) or otherwise submit a written request that contains either a statement expressing that the tenant reasonably believes that there is a threat

of imminent harm from further violence if the tenant were to remain in the unit, or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the Premises within the past 90 calendar days.

#### **VAWA Self-Petitioners**

MPHA will review non-citizen applicant or resident requests for admission or continued assistance as a result of being a self-petitioner under the Violence against Women Reauthorization Act of 2013. A VAWA Self-Petitioner is a non-citizen applicant or tenant who claims to be a victim of “battery or extreme cruelty”, which includes domestic violence, dating violence, sexual assault and stalking perpetrated by their spouse or parent, who is a citizen or lawful permanent resident. MPHA will review non-citizen applicant or resident requests for admission or continued assistance as a result of being a self-petitioner under the Violence against Women Reauthorization Act of 2013.

A VAWA Self-Petitioner may indicate that they are someone who claims to be a victim of “battery or extreme cruelty,” (i.e., victims of domestic violence, dating violence, sexual assault, or stalking and who indicates that they have “satisfactory immigration status”) though MPHA has not yet verified his/her satisfactory immigration status.

Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance. A VAWA Self-Petitioner may submit an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition or a USCIS Form 1-797 to demonstrate a claim of satisfactory immigration status. When an I-360 VAWA Self Petition, an I-130 Family-Based VISA Petition or a USCIS Form 1-797 is submitted, MPHA may not request any additional information from the VAWA Self-Petitioner other than what is required to complete the verification. When a VAWA self-petitioner uses the Family Based VISA petition to satisfy immigration status, upon verification of the Family Based VISA petition, MPHA will require the petitioner to submit evidence of battery or extreme cruelty.

MPHA may provide assistance to a non-citizen, applicant VAWA self-petitioner while MPHA verifies his/her eligible immigration status. Additionally, MPHA may provide continued assistance to the non-citizen participant VAWA petitioner during the time that MPHA verifies his/her eligible immigration status. Housing assistance and all other VAWA protections will be granted to the VAWA Self-Petitioner applicant or tenant throughout the verification process until a final determination of lawful permanent residency can be made.

If MPHA later determines that the VAWA Self-Petitioner does not have eligible immigration status, MPHA will notify the individual and take action to terminate assistance.

#### **MPHA Confidentiality Requirements – (VAWA)**

MPHA will keep confidential any information that the tenant submits in connection with VAWA protections, including keeping confidential the location of a new dwelling unit, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault or stalking against the tenant. MPHA will maintain the confidentiality of the tenant’s new location in the event the tenant receives an emergency transfer related to VAWA protections.

MPHA will not disclose or release or enter into any shared database any personally identifying information or individual information collected in connection with VAWA protections requested or denied except to the extent that the disclosure is:

- Requested or consented to by the individual in a time- limited release writing;
- Required for use in a termination proceeding or hearing; or
- Otherwise required by applicable law

If disclosure is required for use in a termination proceeding or is otherwise required by applicable law, MPHA will make reasonable attempts to provide notice to victims affected by the disclosure of information and will take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

At the time the applicant is denied, MPHA may share the following:

- • Non-personally identifying data in the aggregate regarding services to their tenants and non-personally identifying demographic information in order to comply with Federal or State reporting, evaluation, or data collection requirements;
- • Court-generated information and law enforcement-generated information containing insecure, governmental registries for protection order enforcement purposes; and
- Law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.

## Notification Regarding Protections Under VAWA

### Notification to Applicants & Tenants

MPHA will provide notice to applicants and tenants in assisted housing of protections provided under VAWA at the following junctures:

- At the time the applicant is denied;
- At the time the individual is admitted to a unit in an assisting housing program;
- With any notification of eviction or notification of termination of assistance.

MPHA will provide VAWA information to owners which will consist of the VAWA notice provided to applicants and participating households and the form HUD-5382.

### Notification to the Public

MPHA will make available the following information regarding VAWA.

- A notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD- 5380)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation
- A copy of the MPHA's emergency transfer plan
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5383)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY)
- Contact information for local victim advocacy groups or service providers

### Victim Documentation

MPHA will require that an applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking provide documentation of such claim, including:

- Demonstrating the connection between the abuse and the unfavorable history; and
- Naming the perpetrator of the abuse if it is safe to provide the name and if it is known to the victim.

When a family is facing assistance termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a client or affiliated individual of the tenant's household claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault or stalking, MPHA will require the individual to submit documentation affirming that claim. Tenants may provide one of the following to demonstrate that they should receive protections under VAWA:

- A completed HUD VAWA Certification Form 5382 that describes how the assistance termination relates to the acts of violence defined in this chapter; or,
- A Federal, State, tribal, territorial, law enforcement record, court record or administrative agency record; or,



- Documentation signed by the applicant or tenant AND an employee or representative of a victim services provider, or social services provider, or an attorney, or medical professional, from whom the victim has sought assistance as a result of the abuse, in which the professional attests under penalty of perjury that the applicant or tenant believes that the incident/abuse is grounds for protection under VAWA.

Individuals or families claiming that they are a victim of domestic violence, dating violence or stalking may obtain a HUD VAWA Certification Form 5382 from designated MPHA locations.

#### Time Frame for Submitting Documentation

If an applicant for, or tenant of, MPHA housing represents to MPHA that they are entitled to protections under VAWA, MPHA may request, either verbally or in writing, that the applicant submit a form of documentation as described above. The tenant must submit the required certification and supporting documentation to MPHA within fourteen (14) business days after MPHA has requested the documentation from the applicant/tenant. The 14-day deadline may be extended at MPHA's discretion. If the individual does not provide the required certification and supporting documentation within fourteen (14) business days of MPHA's request, or within the approved extension period, MPHA may proceed with denial or termination of assistance.

If MPHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant's tenancy is not terminated, MPHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

#### Terminating Assistance of a Domestic Violence Offender

This section does not provide protection for perpetrators of domestic violence, dating violence, sexual assault or stalking. MPHA may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against household members or others without terminating assistance to, or otherwise penalizing, the victim of such violence who is also a tenant or lawful occupant. This authority supersedes any local, State, or other federal law to the contrary. However, if MPHA chooses to exercise this authority, MPHA will follow any procedures prescribed by HUD or by applicable local, State, or federal law regarding termination of assistance.

When the actions of a client or other household member result in a decision to terminate the household's assistance and another household member claims that the actions involve criminal acts of physical violence against household members or others, MPHA will request that the victim submit the required certification and supporting documentation in accordance with the stated timeframe. If the certification and supporting documentation are submitted within the required timeframe, or any approved extension period, MPHA will terminate the offender's assistance. If the victim does not provide the certification and supporting documentation, as required, MPHA will deny relief for protection under VAWA and proceed with termination of the household's assistance.

If MPHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the client's tenancy is not terminated, MPHA will bypass the standard process and proceed with the immediate termination of the household's assistance.

#### Transfers and Portability Under VAWA

MPHA may provide a transfer voucher and allow a household to move in violation of its lease if the household has complied with all other obligations of the voucher program and has moved out of the assisted unit in order to protect the health or safety of a tenant or affiliated individual who is or has been the victim of domestic violence,

dating violence, stalking or sexual assault. Tenant must complete the emergency transfer certification form approved by HUD (Form HUD-5383) or otherwise submit a written request that contains either a statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the unit, or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the Premises within the past 90 calendar days. See MPHA's Emergency Transfer Plan for Victims of Domestic Violence,

Dating Violence, Sexual Assault, or Stalking which is attached in Appendix D.

#### Response to Conflicting Certification

In cases where MPHA 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, MPHA may determine which is the true victim by requiring third-party documentation from each member and by following any HUD guidance on how such determinations should be made. Third-party documentation to substantiate the occurrence of a VAWA-related offense must be submitted within 30 calendar days after MPHA submits a written request for third-party documentation. MPHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim or to address the distribution or possession of property among the household.

#### Remedies Available to VAWA Victims

Notwithstanding any federal, State, or local law to the contrary, MPHA may remove a household member from the household composition without regard to whether the household member is a signatory to the lease, in order to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against household members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant. Such termination of assistance shall be affected in accordance with the procedures prescribed by federal, State, or local law for termination of assistance under the Section 8 HCV and Section 8 Project-Based programs. Tenants who remain in the household after a perpetrator is removed from the household composition, who have not already established eligibility for housing assistance will be given at least 90 calendar days from the date of the removal of the perpetrator or until the expiration of the lease, whichever is shorter, in order to establish eligibility for housing assistance or to find alternative housing. If a tenant is unable to establish eligibility, MPHA may provide tenant a reasonable time, not to exceed 60 days, to find new housing.

#### VAWA Record Retention

MPHA will retain a record of all VAWA emergency transfer requests and outcomes for a period not less than three years. MPHA will follow HUD reporting requirements regarding VAWA emergency transfer requests and outcomes.

### 6.0 VERIFICATION STANDARDS

#### Family Consent to Release of Information

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

MPHA will deny admission to the program if any member of the applicant family fails to sign and submit the consent forms, which allow MPHA to obtain information that MPHA has determined necessary in the administration of the HCV Program.

#### 6.2 Acceptable Methods of Verification

##### Hierarchy of Verification Methods

MPHA may use six methods to verify household information.

In order of priority, the forms of verification that MPHA will use are:

1. Upfront Income Verification using HUD's EIV and IVT system
2. Upfront Income Verification using non-HUD systems
3. Written Third-Party Verification: An original or authentic document generated by the third-party source, which may be in the possession of the tenant or applicant. Examples include pay stubs, bank statements, and

pharmacy printouts.

4. Written Third Party Verification Form: Standardized form sent by PHA to the third-party source by mail, fax or e-mail.
5. Oral Third-Party: Verification by contact via telephone or in-person.
6. Self-Certification or Tenant Declaration.

### 6.3 Enterprise Income Verification (EIV) SYSTEM

#### EIV Income Reports

MPHA will use HUD's EIV system as a third-party source to verify tenant employment and certain income information during regular and interim recertifications of household composition and income.

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

EIV Income reports will be compared to household-provided information as part of the regular and interim reexamination process. Income reports may be used in the calculation of annual income, as described in the chapter on INCOME AND ADJUSTED INCOME.

Income reports will be used as necessary to identify earned income and unemployment benefits, and to verify and calculate Social Security and/or SSI benefits. EIV will also be used to verify that households claiming zero income are not receiving income from any of these sources. Income reports will be retained in household files.

#### EIV Identity Verification

The EIV system verifies tenant identities against Social Security Administration (SSA) records.

These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth. When identity verification for a tenant fails, a message will be displayed within the EIV system and no income information will be displayed.

MPHA will identify tenants whose identity verification has failed. MPHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the household. When MPHA determines that discrepancies exist as a result of MPHA errors, such as spelling errors or incorrect birth dates, MPHA will correct the errors and re-run the EIV report to confirm correction.

#### Up-Front Income Verification (UIV)

Up-front income verification (UIV) refers to MPHA'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 these systems are available to MPHA.

### 6.4 Third Party Written Verification

Written third-party verification is an original or authentic document generated by a third-party source dated either within the 60-day period preceding the MPHA request date. Such documentation may be in the possession of the household. MPHA may, at its discretion, reject any household-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable written third-party verification 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.

Unless third-party verification is not required, MPHA will attempt to obtain third-party verification before using

another form of verification. MPHA will determine if third-party verification is not required if the asset or expense involves an insignificant amount of income, making it not cost-effective or reasonable to obtain third-party verification. An insignificant amount of income is defined as \$10 or less per month.

#### Written Verification Form

MPHA may send a written request for third party verification under the following circumstances:

- When higher forms of verification (UIV, EIV, written third party documents) are not available;
- When MPHA requires clarification of income information;
- If the tenant disputes EIV, UIV or other third-party documents; and
- When there is a significant difference between tenant provided information and third-party documents.
- For example, if a tenant is unable to provide pay stubs, MPHA may send a written third-party verification form to the employer to verify employment status and income.
- MPHA may mail, fax, e-mail, or hand deliver third-party written verification form requests and will accept third-party responses by any of these methods.
- As needed, MPHA may send a written request for verification to each required source after securing a
- household's authorization for the release of the information
- A record of each attempt to contact the third-party source will be documented in the file.

#### 6.5 Oral Third Party Verification Clarification

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., 5 business days. Verifications received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

#### 6.6 Self-Certification

Household members may be required to submit self-certifications attesting to the accuracy of the information they have provided to MPHA when information cannot be verified by a third party or by review of documents. Self-certification, or “tenant declaration,” is used as a last resort when MPHA is unable to obtain third-party verification. MPHA will document the file with attempts to obtain higher forms of verification before relying on self-certification. MPHA may require a household to certify a household member does not receive a particular type of income or benefit. All self-certifications must be signed in the presence of an MPHA representative or notary public. Self-certifications must be approved by a Supervisor.

Self-certification may not be used to verify the following benefits:

- Social Security Benefits;
- Unemployment
- Court Ordered Child Support
- Supplemental Security Benefits; or
- Public Assistance
- Veterans Benefits
- Government Pensions
- Unreimbursed medical expenses

#### When Third Party Verification is Not Required

Third party verification will not be required under the following circumstances:

- Verification Service Charge - If there is a service charge for third party verification, MPHA will assume that third party verification is not available and use lower forms of verification according to the verification hierarchy.
- 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.
- Assets Disposed of Less than Fair Market Value - MPHA will accept a self-certification from the family as verification of assets disposed of for less than fair market value.

## 6.7 Verification of Legal Identity

MPHA will require families to furnish verification of legal identity for each household member.

If an official record of birth or evidence of Social Security retirement benefits cannot be provided, MPHA 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.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
<ul style="list-style-type: none"> <li>• Certificate of birth, naturalization papers</li> <li>• Church issued baptismal certificate</li> <li>• Current, valid driver's license or Department of Motor Vehicles identification card</li> <li>• U.S. military discharge [DD 214]</li> <li>• U.S. passport</li> <li>• Employer identification card</li> </ul>	<ul style="list-style-type: none"> <li>• Certificate of birth</li> <li>• Adoption papers</li> <li>• Custody agreement</li> <li>• Health and Human Services ID</li> <li>• School records</li> </ul>

## 6.8 Verification of Age

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA 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.

## 6.9 Verification of Family Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

### Marital Status Verification

Certification by the head of household is normally sufficient verification of marriage. If MPHA has reasonable doubts about a marital relationship, MPHA will require the family to document the marriage.

## Separation or Divorce Verification

MPHA may require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

## 6.10 Verification of Citizenship and Immigration Status

### 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 MPHA to request additional documentation of their status, such as a passport or original birth certificate.

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

### Eligible Non-Citizens

In addition to providing a signed declaration, those declaring eligible non-citizen status must submit a signed declaration form and documentation to confirm the claimed citizenship as well as cooperate with MPHA efforts to verify their immigration status.

The documentation required for establishing eligible non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

MPHA will use the USCIS SAVE system to verify eligible immigration status.

### Ineligible Non-Citizens

Ineligible non-citizens are those who do not wish to contend their immigration status. MPHA requires that non-citizens sign a certification attesting to their ineligible immigration status and are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. MPHA is not required to verify a family member's ineligible status, and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

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

### Mixed Families (Households with Ineligible Non-Citizen Members)

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. 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.

### Timeframe for Determination of Citizenship Status

For new applicants, MPHA will ensure that evidence of eligible citizenship status is submitted no later than 10 business

days from the date of the initial intake appointment, while MPHA completes verification of other aspects of eligibility for assistance.

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

If an individual qualifies for a time extension for the submission of required documents, MPHA will grant such an extension for no more than 30 days.

Each family member is required to submit evidence of eligible status only one time during continuous occupancy, unless that status changes, at which time evidence of citizenship status will need to be re-submitted.

MPHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member. Otherwise, no individual or family may be assisted prior to the affirmative establishment by MPHA 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 MPHA in accordance with program requirements.

### **Social Security Numbers**

The applicant and all members of the applicant's household who are eligible to receive an SSN (those who contend eligible immigration status and US Citizens), must provide documentation of a valid Social Security Number (SSN) as part of the eligibility determination process.

New household members are required to provide documentation of a valid SSN before approval for occupancy in an existing HCV household.

An exemption is provided to existing tenants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed a Social Security number.

If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract or within 90 days of the date of the request to add the child to the household. A 90-day extension may be granted if MPHA determines that the tenant's failure to comply was due to unforeseen circumstances and was outside of the tenant's control.

MPHA will accept the following documentation as acceptable evidence of the social security number:

- An original Social Security number card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and Social Security number of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and Social Security number of the individual including but not limited to the following:
- Driver's license
- Court records [real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider

### **Persons Not Required to Provide Documentation of A Valid SSN**

- Individuals who do not contend eligible immigration status will NOT have an SSN to disclose
- Individuals with SSN verified by HUD EIV
- Individuals who have previously disclosed a valid SSN; and
- Tenants who are 62 years old or older as of January 31, 2010 and who have not previously disclosed a SS number, will not be required to provide documentation of a valid SSN. Exemption applies even upon a move within the program.

## Penalties for Failure To Disclose SSN

Applicants who fail to disclose SSNs will be denied eligibility. Participants who fail to disclose SSNs will be terminated.

### 6.11 Verification of Disability

MPHA will verify the existence of a disability in order to allow certain income disallowances and deductions from income. MPHA will use HUD's definition of disability in 24 CFR 5.403, as may be amended to verify a disability for these purposes. MPHA will not inquire about the nature or extent of a person's disability.

Third-party verification will 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].

If a person's disability is obvious or otherwise known to MPHA, 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 MPHA, MPHA will 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.

MPHA will not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MPHA receives a verification document that provides such information, MPHA will not place this information in the tenant file. Under no circumstances will MPHA request a participant's medical record(s).

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:

- 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

### 6.12 Current or Former Subsidy Assistance

#### Debt Screening:

MPHA will conduct EIV debt screening on all members 18 years old or older. EIV debt screening for prior debts incurred during previous participation in a federally assisted housing program will be conducted at the time of eligibility screening.

In order to be determined eligible for assistance, debt that is considered "current" must be paid in full within 15 days of screening or an applicant must be current on a repayment agreement. MPHA will not conduct debt screening on VASH households

For purposes of this section, "current" means amounts owed to MPHA during the last 4 years or such other period for which the statute of limitations has not tolled in Minneapolis or other applicable jurisdiction. For example, if an applicant's participation in an assisted program was ended in 2010 due to debts owed, and the applicant never repaid



such amounts and applies for the HCV program in 2013, then a “current” debt is owed. If the applicant’s participation in an assisted program ended in 1985 for the same reason, that debt could not be considered “current” unless applicable law permitted.

MPHA will consider debt that is not “current” (as defined above) as part of a history of non-payment and may deny admission to a household if there is other evidence of a history of non-payment and/or other eligibility factors, when taken as whole, that render a household ineligible for admission.

#### **EIV Existing & Former Tenant Search**

MPHA will conduct EIV screening for new applicants. An EIV Existing Tenant Search will be conducted on minor and adult members of an applicant household and when adding an adult or minor to an existing household. An EIV Former Tenant Search will be conducted on adult members of an applicant household and when adding an adult to an existing household. MPHA will follow its policies on denial and termination of assistance when reviewing and acting on results of the EIV Former Tenant Search

MPHA will discuss with the applicant if the EIV Existing Tenant Search identifies that the applicant or a member of the applicant’s household is residing at another federally subsidized housing location, giving the applicant the opportunity to explain any circumstances relative to his/her being assisted at another location.

MPHA will follow up with the respective public housing agency or owner to confirm the individual’s program participation status before admission, if necessary, depending on the outcome of the discussion with the applicant.

MPHA will retain the search results with the application along with any documentation obtained as a result of contact with the applicant and MPHA and/or owner at the other location.

### **6.13 Student Verification**

#### **Student Status Verification**

MPHA 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 claims full-time student status for an adult other than the head, spouse, or co-head, or
- The family claims a child care expense deduction to enable a family member to further his or her education.
- The family includes a student enrolled in an institution of higher education. See Appendix G.

#### **Verification of Full Time Student Status**

Members 18 years old and up that wish to declare themselves as full time students in order to claim the full-time student income exclusion must verify they are either enrolled full time in a high school working towards a diploma or enrolled full-time at an accredited higher learning institution.

Students must be enrolled full time continuously throughout the academic year. Members will be granted full time student status only if:

- The family can provide enrollment verification for the current academic year certified by the school’s registrar’s office, or
- Provide a class list for the current academic year showing the number of credit hours determined by the institution to reflect full-time status

If the member stops attending school as a full-time student they must report and update their status with MPHA. Members with full-time student status must verify they were enrolled the full academic year upon their next annual.

### Opting to not declare student status to increase affordability limits

Note: Student status exclusion may apply in determining household income when HOH chooses to count income of a full-time student for meeting affordability of a selected unit.

MPHA will no longer require families to identify the student status of household members. Instead, families can choose whether or not to declare FTS status at lease-up or unit transfer. If the family chooses not to declare FTS status at lease-up for one or more family members, that family member's income will be included in determining affordability for the family's selected unit, which will allow families greater flexibility in locating an affordable unit.

However, once a family member's FTS status is not declared for purposes of affordability, the member's income will always be counted regardless of FTS status until they move to another unit.

### Verification of Parental Income of Students Subject to Eligibility Restrictions

When MPHA is required to determine the income eligibility of a student's parents, MPHA will request an income declaration and certification of income from the appropriate parent(s). MPHA 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 MPHA.

MPHA 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.

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

### Verification of Restrictions on Assistance to Students

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy MPHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- 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.
- student is at least 24 years old.
- student is a veteran.
- student is married.
- student has at least one dependent child.
- student is a person with disabilities and was receiving assistance prior to November 30, 2005.

If MPHA cannot verify at least one of these exemption criteria, MPHA 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, MPHA will verify either the student's parents' income eligibility or the student's independence from his/her parents.

#### Verifying Student Independence

by doing all of the following:

- Reviewing and verifying previous address information to determine evidence of a separate household or verifying the student meets the U.S. Department of Education's definition of "independent student";
- Reviewing a student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of "independent student"; and
- Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income. (Except if the student meets the Department of Education's definition of "independent student")

#### Verifying Student Independence

MPHA will verify a student's independence from his or her parents to determine that the student's parents' income is not relevant for determining the student's eligibility for assistance.

#### Student Financial Assistance

For a student subject to having a portion of his/her student financial assistance included in annual income, MPHA 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, MPHA will request written verification of the student's tuition amount. If MPHA is unable to obtain third-party written verification of the requested information, MPHA will pursue other forms of verification following the verification hierarchy.

#### Student Financial Assistance

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance.

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. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education. Excluded amounts are verified only if, without verification, MPHA would not be able to determine whether or to what extent the income is to be excluded verification following the verification hierarchy.

#### Students Enrolled in Institutions 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.

MPHA will use the definition of Institution of Higher Education from the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

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. 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.

### **Determining Student Eligibility**

For any student who is subject to the 5.612 restrictions, MPHA 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 a student is applying for assistance on his/her own, apart from his/her parents, MPHA will determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, MPHA will ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

If MPHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, MPHA will send a notice of denial and the applicant family will have the right to request an informal review in accordance with the policies on INFORMAL REVIEWS.

In determining whether and how the new eligibility restrictions apply to a student, MPHA will rely on the following definitions:

### **Dependent Child for Student Eligibility**

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.

### **Parents:**

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

### **Determining Parental Income Eligibility**

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of independent student in this section, MPHA will verify and determine the income eligibility of the student's parents. See the Chapter on Verification Parental Income Of Students Subject To Eligibility Restrictions. In determining the income eligibility of the student's parents, MPHA will use the income limits for the jurisdiction in which the parents live.

### **Student with Disabilities**

MPHA 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.

### **Independent Student**

MPHA 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:
  - The individual is at least 24 years old by December 31 of the award year for which aid is sought
  - The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
  - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
  - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
  - The individual is a graduate or professional student
  - The individual is married
  - The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
  - The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms
  - The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided
  - The 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

If MPHA 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. MPHA will verify that a student meets the above criteria in accordance with the policies.

#### 6.14 Applicant Fails to Respond to Verification Request

Applicants are required to respond to requests by MPHA for verification of family, income and/or expense information. MPHA will take the following actions when a family fails to respond to the request for verification:

- 10 business days after the request for verification, MPHA will send a Nondisclosure of Information Appointment letter to the head of household, warning of the consequences if the family fails to contact MPHA within the time frame set forth in the letter.
- If at the end of the time frame set forth in the letter, the family has not provided the requested information, MPHA will send the family a termination letter or remove the family from the waitlist ending the new admission process.

### 6.15 Fraud

Information provided by the applicant that proves to be untrue may be used to disqualify the applicant for admission or terminate the tenant on the basis of attempted fraud. MPHA will consider false information concerning the following to be grounds for rejecting an applicant or terminating assistance:

- Income, assets, family composition;
- Social Security Numbers;
- Preferences;
- Allowances (e.g. medical, disability and/or child care expenses); and
- Previous participant history or criminal history

The applicant shall be notified in writing of such determination by MPHA and will be given the opportunity for a hearing.

### 6.16 Final Eligibility Determination and Program Admission

If MPHA determines that a family is not eligible for admission to the program for any reason, the family will be notified of a decision to deny assistance. in writing within 30 calendar days of the determination. See policies on Notice of Denial and INFORMAL REVIEWS.

If MPHA determines a port in participant is ineligible MPHA will take action to terminate program participation.

## C - INCOME AND RENT

### 7.0 DETERMINING INCOME

#### 7.1 Annual Income Inclusions and Exclusions

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.

Annual income includes, but is not limited to:

- Wages: The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services. The employment income of an emancipated minor is included if the emancipated minor is the head of household, co-head or spouse.
- Beginning January 1st, any new income source, including additional jobs, needs to be reported to MPHA within 30 days of the start of the new income source. This new income will be added to the household total and used to determine the Tenant Rent Portion.
- The net income from operation of a business or profession
- Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight-line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business. 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, supporting documentation of all business expenses and expense calculation must be provided.
- Interest, dividends, and other net income of any kind from real or personal property
- If the family has net family assets less than \$5,000, annual income shall include the actual income from those assets except as superseded by MTW policy;
- If 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, except as superseded by MTW policy;
- The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, see ANNUAL INCOME EXCLUSIONS for treatment of delayed or deferred periodic payment of Social Security or Supplemental Security Income benefits);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (See ANNUAL INCOME EXCLUSIONS concerning treatment of lump-sum additions as family assets);
- All cash welfare assistance payments (Temporary Assistance to Needy Families, General Assistance) received

by or on behalf of any family member;

- Periodic and determinable allowances, such as alimony and child support payments, and regular cash and non-cash contributions or gifts received from agencies or persons not residing in the dwelling made to or on behalf of family members
- Any contribution or gift received every 2 months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$600.00 per year;
- Imputed Welfare Income: Such amounts that involve a reduction of welfare benefits by the welfare agency, in whole or in part, for a tenant family member, because of fraud by a family member in connection with the welfare program or because of a welfare agency sanction against a family member for non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program shall be included in annual income. This limitation does not apply to the loss of welfare benefits resulting from the expiration of a lifetime limit on benefits or a durational time limit on benefits;
- All regular payments to the head of the household for support of a minor, or payments nominally to a minor for his/her support, but controlled for his/her benefit by the head of the household or a tenant family member other than the head, who is responsible for his or her support;
- All regular pay, special payments and allowances (such as longevity, overseas duty, rental allowances, allowances for dependents, etc.), received by a member of the Armed Forces (whether or not living in the dwelling) who is head of the family, spouse, or other family member whose dependents are residing in the unit.
- Regular payments from tribal governments to members, unless specifically excluded by HUD regulations.

#### Annual Income Exclusions

Annual Income does not include the following:

- Income from employment of children (including foster children) under the age of 18 years;
- 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);
- 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 24 CFR 5.609);
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- Income of a live-in aide, as defined in §5.403
- Subject to policies in annual income inclusions, the full amount of student financial assistance paid directly to the student or to the educational institution;
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- Amounts received under training programs funded by HUD;
- 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);
- 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;
- Amounts received under a tenant service stipend. A tenant service stipend is a modest amount (not to exceed \$200 per month) received by a tenant for performing a service for MPHA 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, tenant initiatives coordination, and serving as a member of MPHA's



- governing board. No tenant may receive more than one such stipend during the same period of time;
- 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 tenant 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;
- Temporary, nonrecurring or sporadic income (including gifts);
- 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;
- Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- Adoption assistance payments in excess of \$480 per adopted child;
- 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 in prospective monthly amounts.
- 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;
- 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.

#### State and Local Employment Training Programs

MPHA 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:

- Classroom training in a specific occupational skill;
- On-the-job training with wages subsidized by the program; or
- Basic education.

MPHA defines incremental earnings and benefits as the difference between the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and the total amount of welfare assistance and earnings of the family member after enrollment in the program.

In calculating the incremental difference, MPHA 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 will be reported in accordance with MPHA's interim reporting requirements.

#### HUD-Funded Training Programs

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

To qualify as a training program, the program must meet the definition of training program provided above.

#### Household Composition and Annual Income

Income received by all family members will 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 annual income determinations.

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

## 7.2 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.

If an adult member has multiple employment, all the jobs will be counted towards the family's annual income.

### Minor Child's Wages

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income.

When a family member will turn 18 between the date of eligibility and on or before the effective date of initial lease-up, MPHA will include the family member's income in the calculation of annual income. For example, MPHA completes an eligibility determination on November 1st. One of the family members is 17 at the time of screening and eligibility determination; however, the family finds a unit with a lease effective date of December 15th and this individual turns 18 on November 17th. MPHA will then calculate the income of that family member as if he/she was an adult, since the family member will be 18 by the effective date of the lease. Deductions will also be applied as if the family member was an adult. For example, a family member who is 17 at the time of eligibility determination, but 18 on the lease effective date, will NOT be given a dependent deduction unless that family member is a full-time student or disabled.

### Income for Foster Adults

Earned income from wages of foster adults is included in annual income,

Payments received from a local welfare agency for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) are excluded from annual income only if the care is provided through an official arrangement with a local welfare agency.

All other income received on behalf of a foster child or a foster adult is included in annual income. For example, if a foster adult receives Supplemental Security Income payments those payments are included in annual income.

### Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to

a family member serving in the Armed Forces who is exposed to hostile fire.

### Seasonal Wages

People in some occupations regularly work less than 12 months per year, i.e., school employees, agricultural workers and construction workers. To determine annual income for individuals who have seasonal income, MPHA will use past actual income received or earned within the last 12 months of the determination date. Documentation may include, but is not limited to UIV, EIV, W-2 forms, 1099, paystubs, and tax returns with supporting income documentation.

### Academic Calendar Employees

Participants employed by a school or school district that do not work during the summer months will have their school year income annualized by converting the average pay to an average weekly pay and multiplying the weekly average by 39 weeks (Average number of weeks in a school year). Annualizing the income by 39 weeks accounts for the unpaid summer months. The participant will not be eligible for an interim decrease over the summer unless they verify they are no longer employed with the school permanently.

Summer jobs or unemployment collected by the participant during the summer months will need to be reported and will be counted towards the family's annual income and rent calculation. Family's may use their one-time interim decrease when the summer job or unemployment ceases when the school year begins. Unemployment should be calculated at 13 weeks and included in the family's income.

i.e. Other wage at 39 weeks = \$25,000 annually

+ Unemployment at 13 weeks = \$5,000 annually

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Total annual income to be used for rent calc = \$30,000

### Business Income for Participant and Applicant Families

#### Business Expenses

Net income is "gross income less business expense". To determine business expenses that may be deducted from gross income, at its discretion MPHA will elect to use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless an expense is determined to be unreasonable by MPHA or a topic is addressed by HUD regulations or guidance as described below.

Business expenses used to calculate net business income will need to be verified with supporting documentation such as:

- Receipts or bank statements,
- Balance sheets for the business,
- Mileage and travel logs,
- Expense calculation statement from tax preparer, or
- Audited financial statement or IRS Form 1040 C

The family must be able to verify the purpose of the expense is solely for business and is not a personal expense. Business expenses should be valid and reasonable expenses for the profession claimed by the participant.

If the family fails to provide supporting documentation the gross business income will be used for income calculation; if partial documentation is provided MPHA will calculate net income utilizing the documentation provided. MPHA will use its discretion to determine if reported business expenses are unreasonable and determine a reasonable method to calculate net business income. Self-declaration of business expenses will not be accepted to validate net income calculations.

## Co-Owned Businesses

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

## Business Expansion

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

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

## Capital Indebtedness

MPHA will not deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means MPHA 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

MPHA will include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business 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, MPHA 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.

## Social Security Benefits

Monthly cash benefits paid out by the Federal Social Security Administration. Social Security cash benefits are counted for all members of the household that receive a benefit. Social Security benefits include:

- Social Security Retirement
- Supplemental Security Income (SSI)
- Social Security Disability (SSD)
- Retirement Survivors and Disability Insurance (RSDI)

The gross amount of these benefits will be used to annualize income from this source; unless money is being recouped by the Social Security Administration due to an overpayment of benefits.

An overpayment occurs when SSA pays an individual more than he/she should have been paid. Regardless of the amount withheld or the length of the withholding period, MPHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount

The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. MPHA will perform an interim rent calculation when the overpayment is paid in full.

Social Security Benefits cannot be self-declared, and must be verified by a third party.

### Welfare Assistance

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.

MPHA will make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. IMPORTANT: This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### Imputed Welfare Income

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent is considered imputed welfare income. MPHA will not reduce the rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," which is a reduction in welfare benefits due to:

- Fraud by a family member in connection with the welfare program; or
- Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program or work activities requirement.
- A "specified welfare benefit reduction" does not include a reduction of welfare benefits due to:
- The expiration of a lifetime time limit on receiving benefits;
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment (an example: the family has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits);
- Noncompliance with other welfare agency requirements.

### Covered Families

The families covered by this policy 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".

### Definition of "Covered Family"

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

### Calculation of Imputed Welfare Income

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

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

Imputed welfare income will be included at regular and interim reexaminations during the term of reduction of welfare benefits.

The amount of imputed welfare income will be offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed income will be reduced to zero.

If the family was not an assisted tenant of public housing when the welfare sanction began, imputed welfare income will not be included in annual income.

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

MPHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced because of fraud or noncompliance before denying the family's request for rent reduction. MPHA will rely on the welfare agency's written notice to MPHA regarding welfare sanctions.

#### **Family Disputes Amount of Imputed Welfare Income**

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

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

#### **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 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.

#### **Alimony and Child Support**

MPHA will count court-awarded amounts for alimony and child support unless MPHA verifies that the payments are not being made. If the family declares that it receives irregular payments that differ from the court awarded amounts, MPHA will count as income an average of the payments received over a twelve-month period, including months payment was due but not received.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award, not required to take independent legal action to obtain collection and will be required to provide notarized statement declaring support payments. If no payments are received for 60 consecutive days, alimony and child support payments will not be counted as annual income.

MPHA will count alimony or child support amounts awarded as part of a divorce or separation agreement.

#### **Regular Contributions and Gifts**

MPHA will count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

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

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.

### Temporary, Nonrecurring, or Sporadic Income

Sporadic income is income that is not received periodically and cannot be reliably predicted. Temporary, nonrecurring or sporadic income and/or gifts are not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days.

#### Example:

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.

Daniel works occasionally as a handyman. He claims to have worked only a couple of times last year and he has no documentation to support this claim. His earnings are neither reliable (he cannot depend on them) nor do they recur at regular intervals. Daniel's handyman earnings are not included in annual income. If Daniel is the sole household member and has no other sources of income or benefits, he would fall under the zero-income verification and reexamination requirements.

### Income of Temporarily Absent Family Members

Generally, an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Temporarily absent members will still have their income counted. Generally, an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent, no longer a family member, their income will be removed and an interim will be completed to adjust the family's income.

### Family Members Permanently Confined for Medical Reasons

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

### Lump-Sum Payments

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) For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Periodic Payments above.

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

#### Asset Income

There is no asset limitation for participation in the HCV program. However, HUD requires that MPHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property". This section discusses how the income from various types of assets is determined. For most types of assets, MPHA will 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

### General Calculation of Asset Income

There are terms that are important in calculating asset income – Market Value, Net Cash Value. Market Value is the face value of an asset (i.e. the value of a Certificate of Deposit).

The Net Cash Value of an asset is the Market Value less reasonable expenses 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. The following are examples of reasonable expenses which would be deducted in determining the net cash value of an asset.

- Penalties for premature withdrawal;
- Broker and legal fees; and
- Settlement costs for real estate transactions

#### **Non-MTW Policy Asset Income:**

When the value of an asset 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.

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

#### **MTW Policy—Imputing Income from Assets**

For MTW households, when a household's total market asset value is at or above \$50,000, MPHA will use the imputed asset income in the calculation of annual income. MPHA will multiply the household's total market asset value by the MPHA established passbook savings rate to determine imputed asset income.

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 MPHA to show why the asset income determination does not represent the family's anticipated asset income.

#### **Passbook Savings Rate**

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

Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for MPHA to establish a passbook rate within 0.75 percent of a national average. The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

#### **Assets Disposed of Less than Fair Market Value**

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

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



When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim reexamination to eliminate consideration of the asset(s).

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

Families must sign a declaration form at initial certification and each annual reexamination 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. MPHA may verify the value of the assets disposed of if other information available to MPHA does not appear to agree with the information reported by the family.

### **Assets in Foreclosure or Bankruptcy**

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 PHA policies related to each type of asset.

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

### **Income from Assets:**

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes MPHA 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) MPHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, MPHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

### **Checking and Savings Accounts**

In determining the value of a checking and savings account, MPHA will use the current balance.

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

### **Investment Accounts**

In determining the market value of an investment account, MPHA 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), MPHA will calculate asset income based on the earnings for the most recent reporting period.

### **Equity in Real Property or Other Capital Investments**

MPHA will also deduct from the equity the reasonable costs for converting the asset to cash. The net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash. For the purpose of calculating expenses to convert to cash for real property, MPHA 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.

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 MPHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### **Personal Property**

In determining the value of personal property held as an investment, MPHA will use the family's estimate of the value. MPHA 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.

### **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.

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.

### **Income of a Person Moving into HCV From a Nursing Home**

If a family member is admitted to the HCV program upon release from a nursing home, rehabilitation center or other healthcare or assisted living facility, and verifies a reduced Supplemental Security Income or Old Age Survivors Disability Income (OASDI) income from Social Security; MPHA will annualize the current income and

conduct an interim reexamination within 90 calendar days of the date of admission. If within the 90 calendar days, the tenant experiences an increase in income from the Social Security Administration, MPHA will process an increase in rent between the regularly scheduled reexaminations.

## **7.3 Verifying Income**

MPHA will verify income using applicable regulatory, MTW and agency policies and procedures.

### **Earned Income Verification**

For verification of wages using pay-stubs (written third party verification), MPHA requires: Pay stubs must be consecutive

- 4 pay stubs for weekly pay,
- 3 pay stubs for bi-weekly or bi-monthly pay and
- 2 pay stubs for monthly pay
- Recent W-2 can be used to verify income in an annual amount

If participant uses a W-2 or other tax forms to report income as an annual amount the participant is not eligible for an interim decrease unless they are terminated or resign from their employment.

If an applicant/tenant provides more than the minimum required pay stubs for verification, MPHA will use only the minimum number of paystubs required and will ensure that the pay stubs used reflect the most current paystubs provided.

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.

Over time wages, shift differential pay, and bonuses will be included in the calculation of wages. For wages other than tips, the family must provide original pay stubs for the last 60 days.

#### **Business and Self Employment Income Verification**

Business owners, self-employed persons, and independent contractors, will be required to provide one or more of the following:

- An audited financial statement or balance sheets for the previous fiscal year if an audit was conducted,
- If an audit was not conducted, a statement of income and verified expenses must be submitted and the business owner or self-employed person must certify to its accuracy,
- IRS Form 1040 C stating gross income from business, itemized list of business expense deductions, and supporting documentation for all business expense deductions listed,
- IRS 1099-MISC to verify gross income for independent contractors and supporting documentation for all business expenses,
- All IRS 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.

MPHA will use the net business income if the family provides supporting documentation of their business expenses in addition to the gross income verification provided. If the family does not provide documentation to MPHA to verify business expense deductions, the gross business income amount will be used to annualize the family's income and calculate rent portions. If the family provides partial documentation for business expenses, the partial verification provided will be used to calculate the net business income to be used for rent calculation or MPHA will determine a reasonable method for calculating the business expenses declared by the participant.

MPHA will use its discretion to apply IRS rules for reporting self-employment income and calculating business expense deductions to ensure deductions are reasonable and fall within IRS guidelines. Business expenses can be denied by MPHA if the expense is unreasonable or is not business related, based on the participant's declared occupation.

At any reexamination MPHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, mileage logs, or bank statements.

MPHA will require the family to provide documentation of income and expenses for this period and use that information to project the annual income.

It is the participant's responsibility to supply supporting documentation for self-employment income in a neat and organized format. Documents that are not organized upon submission will not be accepted until the participant has done so.

#### **Alimony or Child Support Verification**

The methods MPHA 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, MPHA will use one or more of the following: verification will be obtained in the following order of priority.

- If payments are made through a state or local entity, MPHA will request a current record of payments.
- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received
- If the family declares that it receives irregular or no payments, MPHA will verify payments using a disbursement history provided by the child support enforcement agency.
- If there are minors in the household and both parents and/or legal guardians do not reside in the unit, MPHA will request 3rd party verification from the Family Court to confirm that no child support is paid, 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.

Participants will be required to show at least 3 full months of payments to be used for income calculation.

#### Income from Excluded Sources

For fully excluded income, MPHA 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) MPHA will accept a family's self-certification as verification of fully excluded income. Self-certification will not be acceptable for members requesting the full-time student full exclusion of income. MPHA may request additional documentation if necessary to document the income source.

Partially excluded income is defined as income where only a 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). MPHA will verify the source and amount of partially excluded income.

#### Asset Income Verification

##### MTW Policy – Verification of Asset Income

When an MTW household's total market asset value is below \$50,000, MPHA will use self-certification to verify the market value and income of the asset.

#### Retirement Accounts Verification

MPHA will accept written third-party documents supplied by applicant and tenants as evidence of retirement accounts. The type of original document that will be accepted depends upon the family member's retirement status. Before retirement, MPHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, MPHA 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, MPHA 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.

#### Non-Rent Reform policy

For families with net assets totaling \$5,000 or less, MPHA will accept the family's declaration of asset value and anticipated asset income. MPHA will obtain third party verification when family net assets are greater than \$5,000.

#### Reasonableness of Expenses

MPHA will use third-party documentation for assets as part of the intake process and whenever a family member is added to verify the individual's assets regardless of the amount during the intake process and at least every three years thereafter.

Where assets totaling more than \$5,000, MPHA will require the information necessary to determine the current cash value of the family's assets, which is the net amount the family would receive if the asset were converted to cash. Where applicable, acceptable verification of assets may include any of the following:

- Verification forms, letters, or documents from a financial institution or broker;
- Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker;
- Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated security or real estate;
- Real estate tax statements if the approximate current market value can be declared from assessment;
- Financial statements for business assets;
- Copies of closing documents showing the selling price and the distribution of the sales proceeds;
- Appraisals of personal property.

#### Assets Disposed of for Less than Fair Market Value

MPHA will obtain a self-certification from applicants and tenants as to whether any member has disposed of assets for less than fair market value in the preceding two-year period before the effective date of the applicant's eligibility certification or the tenant's reexamination. If the family certifies that it has disposed of assets, as defined by HUD, for less than fair market value, verification will be required if:

- MPHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and MPHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, MPHA will verify the value of this asset.

When conducting third party verification of assets MPHA will request the following information:

- All assets disposed of for less than fair market value;
- The date they were disposed of;
- The amount the family received; and
- The market value of the assets at the time of disposition. Third party verification will be obtained wherever possible

## Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset. Necessary items of personal property are not considered assets. Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

## Assets in Separation or Divorce

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.

## Assets in 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.

## 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

If an asset is owned by more than one person and any family member has unrestricted access to the asset, MPHA 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, MPHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, MPHA will prorate the asset evenly among all owners.

## Investment Accounts

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.

## Equity in Real Property or Other Capital Investments

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

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

- Equity accounts in HUD Homeownership programs
- 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
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated.
- Interests in Indian Trust lands

- Real property and capital assets that are part of an active business or farming operation

### Rental Property Verification

To verify net income from a rental property, the family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant; or
- 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, MPHA 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.

### 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. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### Non-revocable Trusts

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

### 7.4 Annualizing Family Income

MPHA will annualize income to calculate rent portions for the family and HAP payments. Annual income will be calculated for all actions that require a rent calculation and change of income. MPHA will annualize each source of non-excluded income and sum the annualized amounts to calculate the family's total gross annual income. Sources of income will be annualized by determining the frequency the income is received; after the frequency is determined the gross average amount received per distribution is calculated. The gross average is then multiplied by the frequency of distribution to reach the gross annualized total income. Wages will not be rounded to the nearest dollar while calculating annual income.

MPHA will utilize the following frequencies to annualize income:

- Weekly (52 weeks),
- Bi-weekly (26 weeks),
- Semi-Monthly (24 weeks),
- Monthly (12 months), or
- Annually (1 year)

Frequency of income will be verified with the income documentation provided by the family such as:

- Paystubs,
- Bank statements,

- IRS Form W-2,
- IRS 1040 C Income from business and supporting documentation,
- Child support payment records,
- Social Security benefit award letter or EIV, or
- County welfare cash benefit award letter or verification

i.e. John is employed and receives an average gross pay of \$1000 on a bi-weekly basis:

$\$1000 \times 26 \text{ weeks} = \$26,000$  annual gross employment income

i.e. Stacy receives a \$750 SSI cash benefit monthly:

$\$750 \times 12 \text{ months} = \$9000$  annual gross SSI benefit

#### Annualizing Wages Using Year to Date

If it can be verified that a participant has been employed with their current employer since 1/1 of the current year or the hire date can be determined, gross year to date wages stated on the most recent paystub should be used to annualize income. Using the year to date method prevents underreporting wages at the time of re-certification. To calculate using year to date, determine the pay frequency and number of pay periods that have passed from January 1st or the hire date from the check pay date indicated on the most recent paystub. Divide the gross year to date by the number of pay periods counted and the resulting amount is the average gross pay per pay period. Multiply the gross average pay by the frequency of pay to get the annual gross income.

i.e. Dan has worked at his current job since 1/1 of the current year and provided a paystub with a gross year to date of \$20,000. The frequency of pay is bi-weekly and 10 pay periods have occurred since the first pay period in January.

$\$20,000 / 10 = \$2000$  average bi-weekly pay

$\$2000 \times 26 \text{ weeks} = \$52,000$  Gross annual income

If an eligibility technician is able to annualize wages using a year to date average, the technician will annualize wages using both the year to date average and check stub average methods of calculation. The sums of the two calculations will be compared and typically the higher of the two amounts will be used as the gross income amount for the job. If there is a difference greater than \$3000.00 between the sums, the Eligibility Technician will investigate the situation to determine which amount is appropriate to use as gross income based upon their MPHA HCV income verification and calculation training. The Eligibility Technician will need to case note the matter. If there is a verifiable reason to use the lower amount (i.e., the participant's hours have been more recently reduced and will result in a lower annualized amount than would be reflected by using a year to date calculation that would incorrectly reflect more hours being worked through the remainder of the year), the Eligibility Technician will need to case note the matter.

#### Adjusted Annual Income

MPHA will apply the adjusted gross income to calculate HAP payments and the family's rent portion. The adjusted annual income is calculated by subtracting the sum of the deduction allowances the family qualifies for from the family's annualized gross income. Deduction allowances include:

- Disability allowance,
  - \$750.00 For Disabled Rent Reform families
  - \$400 For Disabled Families Non-Rent Reform
- Elderly allowance,
  - \$750 For Disabled Rent Reform families



- \$400 For Disabled Families Non-Rent Reform
- Dependent allowance (Non-Rent Reform),
  - \$480 for each dependent
- EID (Non-Rent Reform),
- Medical expense deduction (Non-Rent Reform),
- Child care expense deduction (Non-Rent Reform), or
- Working family incentive WFI (MTW)
  - 15% Deduction For Each Adult With Earned Income in a Household With Dependents

Deductions must be verified with the proper documentation as stated in the verification section of the Operating Procedures.

i.e. Sarah is a Non-Rent Reform family with a gross annual income of \$20,000 and has 2 children:

$\$480 \times 2 = \$960$  Total minor child deduction

$\$20,000 - \$960 = \$19,040$  Adjusted annual income

i.e. Marcus is a Rent Reform family with a gross annual income of \$20,000, spouse is disabled, and 1 child:

\$750 disability allowance for spouse

$\$20,000 \times .15 = \$3000$  WFI

$\$20,000 - \$3000 - \$750 = \$16,250$  Adjusted annual income

#### Anticipating Annual Income

MPHA generally will use current circumstances to determine anticipated income and expenses for the coming 12-month period. MPHA may use other than current circumstances to anticipate income and expenses when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income or expenses over a 12-month period (e.g., seasonal or cyclic income); or
- MPHA believes that past income is the best available indicator of expected future income.

When MPHA cannot readily anticipate income or expenses based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), MPHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income or expenses 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 MPHA to show why the historic pattern does not represent the family's anticipated income.

MPHA will not use EIV quarterly wages to project anticipated annual income.

#### 7.5 Zero Income

A zero-income household is one where no household member receives any income, contributions and/or benefits on his/her own behalf or on behalf of another individual in the household.

Members must certify their zero-income status by signing and dating the MPHA Declaration of Zero Income Form. Full-time students that do not have income will need to sign the zero income form, because their member status as a student can change. Live in Aides do not need to sign the zero income form, because their status in the home does not

change and their income does not need to be collected by MPHA. form Members with zero income will be required to attend a zero-income update appointment every 90 days to re-certify their zero-income status until the member gains an income source. (If contribution from family is only source of income, the member will still be required to attend 90 day zero income re-certifications)

If all adults report zero income in a household the head of household will need to complete the zero-income household form. All the living expenses and the cost for each expense must be itemized on the form. The family must disclose how the expenses will be paid. The cost of each expense will be summed together as a monthly total and annualized. The annualized expense cost will be counted as other non-wage source income and used for rent calculation. Food and utility expenses paid with public assistance (SNAP & Energy Assistance) will not be counted in the non-wage income calculation.

Living Expenses Include;

- Rent (Anticipated rent at zero income),
- Phone
- Car and car insurance payments,
- Gas,
- Clothing and toiletries,
- Internet and cable.

MPHA will check EIV 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.

## 7.6 Student Income

### Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted as income for the family. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program. Students enrolled in a college or university must be enrolled for at least 12 credits per term to qualify as “full-time.”

### MTW Policy Earned Income of Full-Time Students

Earned income for each full-time student 18 years old or older (except head, spouse, or co-head) is not counted. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program.

If a family is in the process of a voucher issuance to locate a unit, they can elect to not have a full-time student’s income excluded from the household’s income for the purpose of increasing the family’s unit affordability limit. Increasing the affordability limit for a family expands their options for locating a unit and lessening the burden of locating a unit with more constrained limits. If a family chooses to decline the full-time student status the student member’s income will be included in the family’s annual income until the family moves again.

### Student Financial Assistance

To determine annual income in accordance with the above requirements MPHA will use the definitions of dependent child, institution of higher education, and parents 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.

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

#### Student Financial Assistance Excluded from Annual Income

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,
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

#### 7.7 Elderly and Disabled Earned Income Disregard (EID)

The earned income disregard is designed to promote self-sufficiency for families with disabilities in the HCV program who meet the definition of a "qualified family."

##### MTW Policy—EID

For MTW households the Earned Income Disregard has been eliminated.

#### Non-MTW EID

HUD implemented revised guidance and regulation on the Earned Income Disregard. Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by the EID as it existed immediately prior to that date.

#### Eligibility

This disallowance applies only to individuals in families already participating in the HCVP and therefore does not apply for purposes of admission.

A qualified individual is an individual who is participating in the HCV program and:

- 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. Previously unemployed includes person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- 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; A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families; or
- 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.

The Housing Opportunity through Modernization Act (HOTMA) eliminates existing Earned Income Disregard (EID). Participants currently enrolled in EID will complete the terms of their respective EID programs based on their enrollment start date.

#### Description of the EID

Once a family member is determined to be eligible for the EID, the 24–calendar month period starts:

- If the family member discontinues the employment that initially qualified the family for the EID, the 24–calendar month period continues;
- During the 24–calendar month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the 24–calendar month period, MPHA will exclude all increased income resulting from the qualifying employment of the family member.
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were “used.”

#### Example of How the EID Works:

Time Frame	EID Under this Regulation
January 2017 Month 1	<ul style="list-style-type: none"><li>• Carl begins working and is eligible for EID.</li><li>• 100% of Carl’s increase in earned income is excluded</li></ul>
July 2017 Month 7	<ul style="list-style-type: none"><li>• Carl is laid off.</li><li>• EID “clock” continues to run.</li></ul>
February 2018 Month 14	<ul style="list-style-type: none"><li>• Carl begins working again.</li><li>• 100% of the increase in earned income due to Carl’s employment is excluded.</li></ul>

December 2018 Month 24	<ul style="list-style-type: none"> <li>This is the final month during which Carl receives his EID benefit.</li> </ul>
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### Applicability to Training Income Exclusions

If a tenant meets the criteria for the mandatory earned income disallowance as outlined in 24 CFR 5.617, and as amended, MPHA shall not deny a tenant the disallowance based on the tenant's receipt of any prior training income exclusion.

### Applicability to Child Care and Disability Assistance Expense Deductions

The amount deducted for child care and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full exclusion from income shall not be used in determining the cap for child care and disability assistance expense deductions.

## 7.8 Standard Deductions

### Non-Rent Reform Policy

In determining adjusted income, MPHA will deduct the following amounts from annual income:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- The sum of the following, to the extent the sum exceeds three percent of annual income:
- Unreimbursed medical expenses of any elderly family or disabled family;
- 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
- Any reasonable childcare expenses necessary to enable a member of the family to be employed, to actively seek employment, or to further his or her education.

### Dependent Deduction Non-Rent Reform Policy

An allowance of \$480 is deducted from annual income for each dependent, which is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents.

#### Rent Reform Policy—Dependent Deduction

MTW households are not eligible for the dependent deduction.

### Elderly or Disabled Family Deduction Non-Rent Reform Policy

A single deduction of \$400 is taken for any elderly or disabled family. An elderly family is a family whose head, spouse, co-head, or sole member is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with disabilities.

**Rent Reform Policy— Elderly or Disabled Family Deduction**

MTW elderly or disabled households will receive a single deduction of \$750.

**Working Family Incentive (WFI)**

The Working Family Incentive deduction (WFI) is available to MTW families that have earned income from wages and at least one minor child in the household. The WFI deducts 15% from the gross annual wages for each working adult in household unless the wages are excluded.

i.e. John has a gross annual income of \$20,000:

$$\$20,000 \times .15 = \$3000 \text{ WFI}$$

$$\$20,000 - \$3000 = \$17,000 \text{ Adjusted annual wages}$$

Families on repayment agreement with MPHA are not eligible for the WFI and will have the full amount of their wages counted. If the family completes the repayment agreement the WFI will be reinstated. Non-MTW families and families that are Family Self Sufficiency (FSS) participants are not eligible for the WFI deduction.

**Medical Expense Deduction**

**Rent Reform Policy— Medical & Disability Assistance Expense Deduction**

Rent Reform households are not eligible for the medical expense's deduction.

**Non-Rent Reform Policy**

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

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

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

The most current IRS Publication 502, Medical and Dental Expenses, will be used as a reference to determine the costs that qualify as medical expenses. Over-the-counter products will not be eligible for deductions as medical expenses unless they are accompanied by a doctor's prescription.

Summary of Allowable Medical Expenses from IRS Publication 502	
<ul style="list-style-type: none"><li>• Services of medical professionals</li><li>• Surgery and medical procedures that are necessary, legal, non-cosmetic</li><li>• Services of medical facilities</li><li>• Hospitalization, long-term care, and in- home nursing services</li><li>• Prescription medicines and insulin, but not</li></ul>	<ul style="list-style-type: none"><li>• Substance abuse treatment programs</li><li>• Psychiatric treatment</li><li>• Ambulance services and some costs of transportation related to medical expenses</li><li>• The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches,</li></ul>

nonprescription medicines even if recommended by a doctor <ul style="list-style-type: none"> <li>• Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</li> </ul>	and artificial teeth) <ul style="list-style-type: none"> <li>• Cost and continuing care of necessary service animals</li> <li>• Medical insurance premiums or the cost of a health maintenance organization (HMO)</li> </ul>
<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.	

MPHA policy is to provide medical deductions to assistance animals that are assumed to be healthy and able to provide the needed services and assistance. Medical deductions for assistance animals include: food, grooming necessary for the health of the animal and regular health screenings and immunizations. Request for additional medical deductions must be submitted in writing. MPHA will review and make a determination of approval on a case by case basis.

#### Spend down:

Individuals who, except for excess income, would qualify for MA (also known as Medicaid) can qualify for MA through a “spend down.” Under a spend down, an individual reduces his or her income by incurring medical bills in amounts that are equal to or greater than the amount by which his or her income exceeds the relevant spend down standard for the spend down period (six-month or one-month). Unpaid medical bills incurred before the time of application for MA can be used to meet the spend-down requirement.

There are two types of spend-downs. Under a six-month spend-down, an individual can become eligible for MA for up to six months, beginning on the date his or her total six-month spend down obligation is met. Under a one-month spend-down, individuals spend down their income during a month in order to become eligible for MA for the remainder of that month.

To be eligible for an annual medical expense deduction through spend-down, MPHA requires the family to provide a 6-month history from local welfare department that documents that the participant has met his or her spend-down requirement. If a six-month history is not available then the family must provide MPHA with a monthly statement, on a monthly basis for six months, documenting that the spend-down has been made.

#### Disability Assistance Expenses Deduction

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

- Are necessary to enable a family member 18 years or older to work;
- Are not paid to a family member or reimbursed by an outside source;
- In combination with any medical expenses, exceed three percent of annual income; and
- Do not exceed the earned income received by the family member who is enabled to work.

#### Eligible Auxiliary Apparatus

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”

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

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 identifies and MPHA verifies the type of attendant care that is appropriate for the person with disabilities. Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, MPHA 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. 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 identifies and MPHA verifies the type of care or auxiliary apparatus to be provided. The family 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.

MPHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, MPHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and MPHA 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 Non-Rent Reform 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, MPHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

If a family has an accumulated debt for medical or disability assistance expenses, MPHA 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. MPHA may require the family to provide documentation of payments made in the preceding year.

#### **Medical Expense Deduction Verification Non-Rent Reform Policy:**

Where the head, co-head and/or spouse are elderly or disabled are eligible to receive a deduction for unreimbursed



medical expenses, MPHA will 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

MPHA will verify unreimbursed medical expenses using:

MPHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. MPHA may also accept evidence of monthly payments that will be due medical insurance premiums for medical expenses during the upcoming 12 months.

- Third-party documents provided by the family, such as pharmacy printouts, receipts or cancelled checks for medical expenses.
- Third-party verification forms completed by the provider(s)

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

See policies on MEDICAL EXPENSES DEDUCTION for information on allowable deductions.

#### Unreimbursed Expenses

To be eligible for the medical expense deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

#### Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, MPHA 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

#### Disability Assistance Expenses Verification Non-Rent Reform Policy:

MPHA will verify that the family is eligible to deduct unreimbursed disability assistance expenses. MPHA will allow a family to deduct unreimbursed disability assistance expenses after verifying that:

- The family member for whom the expense is incurred is a person with disabilities
- The expense permits a family member, or members, to work.

#### Attendant Care

MPHA will verify disability assistance expenses through written third-party documents provided by the family. If family-provided documents are not available, MPHA will send a third-party verification form directly to the care provider requesting the needed information.

#### Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- 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 of purchase costs of auxiliary apparatus from a third party provide.
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months
- Expenses for attendant care will be verified through:
- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 month

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

#### Reasonableness of Child Care Expenses

The actual costs the family incurs will be compared with standards of reasonableness based on the schedule of child care costs from the local welfare agency. If the family presents a justification for costs that exceed typical costs in the area, MPHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

#### Child Care Expense Verification Non-Rent Reform Policy:

The amount of the deduction will be verified following the standard verification procedures MPHA will verify that the household is eligible to deduct unreimbursed child care expenses by verifying the following:

- The child is eligible for care (under 13 years of age).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

#### Allowable Type of Child Care

MPHA 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).

MPHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### 7.9 Income Changes (Interims)

#### Reporting Changes in Income

Families are required to report increases or decreases for all income sources within 30 days of the change. Families must request an interim rent change by completing an income change request form and providing the required income verification documents. Income changes can be completed online using the MPHA website, HCV participant email,

faxing or submitting the paper form in person.

#### Income Increases

If an income increase is received by MPHA the effective date will be the 1st of the month following the reporting and waiting month of the change.

i.e. A participant reports a new job March 13th (March reporting month/April waiting month), the rent change including the new income will be effective May 1st.

#### Income Decreases

Income decreases are defined by MPHA as a loss of income that is expected to exist for 30 days or more, if the loss of income is expected to exist for less no action will be made to adjust a family's rent.

MPHA will process interim rent decreases for the beginning of the month following the reporting month (not requiring the waiting month) for families that meet the following criteria:

- The request is made no later than the 20th day of the reporting month (if the 20th falls on a weekend or holiday, the first business day PRIOR to the 20th is the deadline if they are wanting the change to go into effect for the beginning of the month following the change);
- The change is reported following existing reporting timeframes; and
- The request is made in writing and all supporting documentation is submitted.

i.e. participant reports being laid off from a job March 13th, the rent change removing the wages will be effective April 1st.

Participants that fail to meet the 20th of the month reporting deadline will have their change follow the reporting and waiting month timeline.

#### Changes That Need to Be Reported and Required Verification

Changes that must be reported:

- New sources of wage income (2nd jobs as of 1/1/19),
  - Job change,
  - Loss of wages,
  - Social Security benefit status change,
  - County welfare benefit change,
  - Child support change, or
  - Family financial contributions
- Changes that do not need to be reported:
- COLA increases for Social Security benefits,
  - Raises and promotions,
  - One-time gifts from friends or family,
  - Lump sum payments,
  - Decreases that are temporary and less than 30 consecutive days. Verification required to report an income change:
  - Paystubs,
  - Termination letter,
  - Stop work verification,
  - Letter from Social Security Administration, or
  - County benefit verification form,

Families will be allowed one decrease in tenant rent portion due to loss of income per year between re-exam cycles.

Families may request a hardship waiver for a second rent portion decrease, but if the waiver is denied the family will not be allowed a rent portion decrease until after the next re-exam effective date.

Newly reported Income amounts will be annualized to calculate the anticipated income for the year, utilizing the income verification provided by the family. Decreases in income must be supported with documentation unless the verification requires a fee or third-party verification is not available.

It is the family's responsibility to follow up with MPHA after reporting a change if they have not received notification of a rent change or income change denial.

### **Reporting Family Composition Changes**

Families must request changes in family composition within 10 days of the change. Families must request a change if family members are added or removed from the household. Requests must be submitted by completing the family change request form with supporting documentation.

Family changes required to report:

- Birth of a child,
- Adoption or foster care placement of a minor child,
- Adding a minor child from outside the household,
- Removing a minor child,
- Adding a live-in aid, or
- Adding an adult,

If the change impacts the voucher size, the voucher size will not be changed until the next annual re-exam. The addition of a new adult member will not increase the family's voucher size, only the addition of a minor child will increase voucher size.

The addition of foster children will not increase the voucher size of the family, unless the Head of Household can show they are in the process of adoption. Foster children are temporary add on members and do not qualify the family for a larger unit size. Custody of minor children must be verified with official documentation in order to be added to the household. Minor children must have their identity proven by presenting vital records or other official documentation.

If the new member has non-excluded income the new income of the member will be annualized and added to the family's total income. An interim change will be completed and rent portions will be recalculated to reflect the new income source, and the effective date of the change will be immediate for the 1st of the following month.

Technicians will mail a letter to the participant stating if the addition of the new member is approved or denied. If the voucher size is impacted by the change the letter will state the effective date of the adjusted voucher size. The letter will be documented in the participant's file for future reference.

i.e. Ann gained custody of her nephew on October 20th and the nephew receives an SSI benefit. The annual SSI amount will be added to the total family income and the rent change will take effect November 1st.

### **Adding Adult Members**

If the family is requesting to add a new adult member an in-person appointment is required to verify the new adult's identity, income, verification the landlord approved the new adult member, and complete a debts owed/criminal background screening. The family will need to complete the "Add a Member Application" for adding a new adult to the household.

New adults must meet MPHA's eligibility criteria for entry and can be denied as a member for failing to meet the eligibility criteria stated in the Operating Procedures Manual. If the new adult member is denied entry the "Add a

Member Denial Letter” will be mailed to the participant, and if the member is approved the “Add a Member Approval Letter” will be mailed. If denied entry, the adult member can request an informal hearing in writing to dispute the decision for denial.

#### Known Changes in Income 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.

MPHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25/\text{hr.} \times 40 \text{ hours} \times 45 \text{ weeks}) = \$2,240.00 + \$14,850.00 = \$17,090.00$

This requirement will be imposed even if MPHA’s policy in Chapter 11 does not require interim reexaminations for other types of changes. When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date

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

#### Interim Rent Change Submission Entry & Processing Timeline

Participants must submit their interim requests via the MPHA participant email [HCV@mplspha.org](mailto:HCV@mplspha.org), fax, or dropping off at the MPHA main office front desk. The change request and mandatory documentation will be logged in Smart Sheet daily to create a digital record of the request. When the request is entered into Smart Sheet the record will be date stamped with a creation date and time. Interims can also be submitted online through the MPHA website [www.mphaonline.org](http://www.mphaonline.org). Submissions submitted online will automatically update and time stamp in Smart Sheet.

Eligibility technicians will be notified of the interim submission via an email from Smart Sheet. Technicians will review the request in smart sheet for completeness and update the completion status to “Reviewed” if more information is needed, or “In Progress” if all documentation has been received and the technician is ready to process.

The technicians will have five business days from the creation date of the submission to process the request if all documentation for the change is complete, and if necessary send any required rent change notifications to the participant and property owner. Technicians will then be responsible to change the submission’s status to “complete” and close the request out in Smart Sheet. Completed change requests will be saved in Smart Sheet and in the participant’s file.

If all the required documentation to complete the income change process has not been submitted, the technicians will request the missing information within two business days of the submission. When the missing information is received, the technician will have five business days from the receipt date of the requested documentation to

complete the interim change process. Technicians will scan in the requested documentation to be time stamped, and update the “All Docs Received” column date to the date the requested items were received.

The completed date entered by technicians into Smart Sheet will be compared to the creation date of the 50058 record of the processed action, to ensure accurate and correct information is entered into Smart Sheet and production deadlines are met.

#### 7.10 File Documentation

MPHA will document in the participant 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 MPHA has followed all of the verification procedures set forth

in this guide. The record should be sufficient to enable a staff member or reviewer to understand the process followed and conclusions reached.

MPHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Family composition
- Other factors influencing adjusted income

When MPHA is unable to obtain third-party verification, MPHA will document in the family file the reason that third-party verification was not available.

#### 7.11 Substantial Difference Exists

If UIV/ third party information differs substantially from household provided information MPHA reserves the right to request additional verification information and use any other verification method in priority order to reconcile the difference.

### 8.0 TOTAL TENANT PAYMENT

#### 8.1 Participant Rent and Utilities

The accurate calculation of annual income and adjusted income will ensure that families are paying the correct amount of rent pursuant to applicable H U D regulations and the MTW Plan.

##### MTW Policy

MPHA's MTW Agreement authorizes MPHA to make determinations with respect to payment standards, rent reasonableness methodologies, and reasonable contract rents and increases to such rents.

MPHA, in its discretion and pursuant to the MTW authorizations, may explore, establish and implement different rent structures to further align the Program with private sector practices as well as to maximize the use of the subsidy resource to promote and support economic independence among Program Participants.

MPHA's policies regarding payment standards and rent determinations support effective strategies for the de-concentration of poverty by providing participants with meaningful and broader housing opportunities in order to access quality affordable housing.

##### Calculating Family Share and Subsidy (HCV MTW) MTW Rent Reform Policy—Flat Subsidy Approach

MPHA will determine tenant rent for MTW Rent Reform households by using a flat, subsidy-based approach. MPHA will provide a flat subsidy for all households based upon the household's verified and calculated income. The household will be responsible for all remaining rent and all tenant-paid utility costs. If the contract rent is less than the flat subsidy, the MPHA-provided subsidy will be equal to the contract rent minus the minimum rent. When the size of the unit the family occupies differs from the size of the unit the family is eligible for, based on MPHA subsidy standards, MPHA will determine the subsidy amount by using the smaller of the actual unit size and the unit size dictated by the subsidy standards. Under the flat subsidy approach, utility allowance payments are eliminated.

MTW PBV households are not subject to the MTW Flat Subsidy policy.

MPHA will use the adjusted annual income, voucher size, unit size, utility responsibility, and current year flat subsidy table to determine the total tenant payment and HAP payment whenever a rent change action is completed.

**Adjusted income** – Annualized gross income less the deductions the family is qualified for,

**Voucher size** – The maximum bedroom size payment standard based on the current family composition,

**Unit Size** – The bedroom size of the unit the family currently resides in or is moving into,

**Utility Responsibility** – The party responsible for paying the heat utility for the unit,

**Flat subsidy table** – MPHA will establish two subsidy tables—one for households responsible for paying heat and the second for all other households. Revisions to the subsidy tables may be effective on an MPHA-determined effective date or at the family’s next regular reexamination. MPHA will make this determination at the time the tables are revised.

MPHA may periodically revise the subsidy tables as needed to reflect current housing conditions. Revisions may include, but are not limited to, changes in the size of each income band, the flat subsidy attached to each income band, and/or the utility allowance adjustments included in the subsidy table.

Using the correct utility responsibility table, the adjusted income will be matched with the family’s determined voucher size and the HAP amount listed where the adjusted income and voucher size meet will be MPHA’s portion.

If the unit’s bedroom size is smaller than the voucher bedroom size or vice versa, the smaller bedroom size will be used to calculate the MPHA’s HAP payment.

The total tenant payment is calculated by subtracting the determined HAP amount from the contract rent, the remaining amount is the tenant total payment.

The flat subsidy rent calculation method for HCV vouchers is subject to change under MPHA’s MTW discretion.

#### **Rent Notification Letters**

Any time a rent change action is completed MPHA will notify the participant and property owner with a mailed rent notification letter. The participant will receive a rent notification letter with two more documents stating how the bedroom size was determined and the income used for the HAP calculation, and how the final rent

portions were calculated. It is the participant’s responsibility to review the rent calculation documents to ensure the family composition and income used for the rent calculation are accurate.

#### **Non-Rent Reform Total Tenant Payment**

MPHA 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.

#### **Non-Rent Reform Policy**

TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family’s monthly adjusted income
- The minimum rent established by MPHA

The amount that a family pays for rent and utilities (the family share) will never be less than the family’s TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### **MPHA Soft Subsidy**

#### **MPHA Subsidy for Mixed Families**

A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. For example, if the MPHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the MPHA subsidy would be reduced to \$250.

#### MTW Policy

For mixed families, MPHA will deduct 10% from the flat subsidy amount. The 10% deduction is a flat deduction from the subsidy amount regardless of the number of ineligible family members in the household.

#### Non-MTW Policy

For mixed families MPHA 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.

#### 8.2 Zero HAP

When a family completes a re-certification or reports an income change and the new annual income exceeds the maximum income band for their voucher or unit size, MPHA will pay zero HAP to the landlord, and the participant will be responsible to pay the full contract rent amount. The landlord and participant will be notified with a “Zero HAP Notification Letter” stating the effective date of the zero HAP and the 6- month termination date.

Participants at zero HAP will remain on the program for six months from the effective date of the zero HAP payments. If the participant reports a change of income or family composition that results in a decrease of income, the income will be adjusted and if the new income amount qualifies the family to receive a HAP payment the family will continue to receive assistance.

If after the six months the family reports a change of income or family composition that does not qualify for a HAP amount, or reports no change at all, the family will be terminated from the program on the date stated on the zero HAP notification letter.

#### 8.3 Minimum Rent

##### MTW Policy

The minimum rent for MTW Rent Reform Programs is \$75. If a participant’s calculated TTP is less than the minimum rent, MPHA will apply the \$75 minimum rent which is factored into MPHA’s subsidy tables.

All MTW households paying minimum rent will be referred to as “minimum rent” households.

MPHA may periodically revise the minimum rent.

Under certain circumstances, MTW households will be permitted to request a financial hardship exemption from the minimum rent policies. Hardship request from minimum rent policies are found in **Minimum Rent Hardship**.

##### Financial Hardships Affecting Minimum Rent Non-MTW Policy

The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>					
Assume the MPHA has established a minimum rent of \$75.					
Family Share – No Hardship			Family Share – With Hardship		
\$0	30% of monthly adjusted income		\$0	30% of monthly adjusted income	
\$15	10% of monthly gross income		\$15	10% of monthly gross income	
N/A	Welfare rent		N/A	Welfare rent	
\$75	Minimum rent	\$0	\$75	Minimum rent	



Minimum rent applies. TTP = \$75	Hardship exemption granted. TTP = \$15
<p><b>MTW Policy</b></p> <p>MTW families may request a hardship exemption from the MTW minimum rent policies. Households must submit the request in writing for hardship from minimum rent and required supporting documentation within 15 days of the date of the rent change notice. MPHA will not grant hardship exemptions if the hardship is considered temporary, defined as lasting less than 90 days.</p> <p>The hardship must be the result of one of the following:</p> <ul style="list-style-type: none"> <li>• The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;</li> <li>• The income of the family has decreased because of a significant change in circumstances, including loss of employment;</li> <li>• The death of a household member has occurred affecting a major source of income for the family; and/or,</li> <li>• Other circumstances determined by MPHA.</li> </ul> <p>MPHA's Hardship Review Committee will review requests and render a decision within 10 business days of receipt of the Minimum Rent Hardship Request Form and all supporting documentation. MPHA will suspend the minimum rent beginning the month following the approval of the request.</p> <p>An approved hardship exemption from paying minimum rent is limited to 12 months. For families with approved hardship exemptions, MPHA will calculate the rent using 30% of the family's adjusted monthly income.</p> <p>After the exemption has expired, the household's subsidy will be determined using MTW minimum rent policies. Families may not be permitted to request an additional hardship. For instance, if a household requests a hardship exemption during the initial twelve months of being subject to minimum rent policies and is approved for a full twelve-month hardship, upon expiration of the hardship the household's subsidy level will immediately be determined using the appropriate income band.</p>	

#### Non-Rent Reform Minimum Rent Policy

The minimum rent for the following programs is \$0:

- Mod/Rehab and Mod/Rehab SRO
- Continuum of Care
- Project Based Units

The minimum rent for the following programs is \$50:

- Preservation Vouchers
- VASH
- Family Unification Program

Non-Rent Reform families may pay less than the minimum tenant rent if the family pays utilities and the Utility Allowance Payment brings the tenant rent portion below the \$50 minimum.

#### 8.4 Minimum Rent Hardship Request

When the minimum rent is greater than zero, MPHA will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP.

If a family requests a financial hardship exemption, MPHA will suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until the MPHA determines whether there is a qualifying financial hardship and whether such hardship is temporary or long term.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the allowable hardship circumstances.

Financial hardship includes the following situations:

1. The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.
2. The family would be evicted because it is unable to pay the minimum rent.
  - a. For a family to qualify under this provision, the cause of the potential eviction must be the family's inability to pay rent to the owner or tenant-paid utilities.
3. Family income has decreased because of changed family circumstances, including the loss of employment.
4. A death has occurred in the family
  - a. In order to qualify under this provision, a family must provide documentation of how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income)

#### Determination of Hardship

To qualify for a hardship exemption, a family must submit a request including documentation for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 21 calendar days.

#### Determination of Hardship

When a family requests a financial hardship exemption, MPHA will suspend the minimum rent requirement beginning the first of the month following the family's request.

MPHA will determine whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

MPHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

### No Financial Hardship

If MPHA determines there is no financial hardship, MPHA will reinstate the minimum rent and require the family to repay the amounts suspended.

MPHA will require the family to repay the suspended amount within 30 calendar days of MPHA's notice that a hardship exemption has not been granted.

### Temporary Hardship

If MPHA determines that a qualifying financial hardship is temporary, MPHA will suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay MPHA the amounts suspended. MPHA may determine that circumstances have changed and that the hardship is long-term hardship. MPHA may enter into a repayment agreement in accordance with procedures.

### Long-Term Hardship

If MPHA determines that the financial hardship is long-term, MPHA will exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

The hardship period ends when any of the following circumstances apply:

- 1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- 2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- 3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## 8.5 Utility Allowance Deductions

### Non-Rent Reform Policy

MPHA will issue all utility reimbursements on a monthly basis.

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

MPHA's established utility allowance schedule is used in determining family share and MPHA 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 MPHA subsidy standards, whichever is the lowest of the two.

MPHA may make utility reimbursement payments quarterly, rather than monthly, if the total quarterly reimbursement payment due to a family is equal to or less than \$45 per quarter. MPHA may make reimbursement payments retroactively or prospectively. Where MPHA chooses to make reimbursement payments retroactively, MPHA will permit a family to request a hardship exemption. If a family receives a hardship exemption, MPHA may either reimburse the family on a monthly basis or make prospective payments to the family, on a quarterly basis.

If a family leaves the program with an outstanding credit for a utility reimbursement, MPHA will reconcile the credit

with the family prior to the expiration of the lease. Reconciliation should take place when the HAP contract terminates or shortly thereafter (i.e., no later than 30 calendar days after HAP contract termination).

#### **Rent Reform Policy**

Under MPHA's MTW Flat Subsidy Model, Rent Reform households will not receive utility reimbursements. MPHA will create two flat subsidy tables — one for households responsible for paying heat and the second for all other households. The table for households paying heat will include an adjustment based on average heat costs across fuel type.

#### **Utility Allowance Revisions Non-Rent Reform 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.

#### **Rent Reform Policy**

MPHA may periodically revise the subsidy tables to adjust for current utility costs. Revisions to the subsidy tables may be effective on an MPHA-determined effective date or at the family's next regular reexamination. MPHA will make this determination at the time the tables are revised.

## D - VOUCHER ISSUANCE & BRIEFING

### 9.0 VOUCHER ADMINISTRATION

The voucher includes the unit size for which the family qualifies based on MPHA'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.

#### 9.1 Voucher Types

#### 9.2 Special Allocation Vouchers

##### Voucher Issuance After Insufficient Funding

For families within the same category who were previously terminated or who had vouchers recalled due to insufficient funding, vouchers will be issued to those terminated or with vouchers recalled first. In these cases, vouchers will be issued as follows:

- Families who requested moves that were denied due to insufficient funding.
- Families with special purpose vouchers (NEDs, FUP, VASH) that were previously terminated or who had vouchers recalled due to insufficient funding.
- Once MPHA resumes issuing vouchers after a funding shortfall, if MPHA is not assisting the required number of NEDs, VASH, and FUP vouchers, MPHA will issue vouchers to special purpose voucher categories of families on its WL until the MPHA is assisting its required number of special purpose vouchers.

Families without special purpose vouchers who were previously terminated or who had vouchers recalled due to insufficient funding.

#### 9.3 Occupancy Standards and Voucher Size Determination

MPHA will establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. These policies 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. MPHA will also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of the voucher term.

For each family, MPHA determines the appropriate number of bedrooms under MPHA 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.

To avoid overcrowding and the conditions that may arise from overcrowding, the Voucher Size of the Voucher issued to each eligible Participant will be determined in accordance with Operating Procedures based on the verifiable needs of the Participant household. As a general rule, no more than two people may occupy a bedroom. However, in considering a request made by a Participant, a variety of factors, including, but not limited to, the number of people in the household, the age and gender of household members, special needs and reasonable accommodations, may be approved by MPHA in determining Voucher Size.

##### Determining Family Voucher Size

MPHA will not approve the addition of a foster child or foster adult if it will result in the need for a larger unit, according to MPHA occupancy standards or a violation of HQS space standards. A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards.

### Exceptions to Subsidy Standards:

In determining family unit size for a particular family, MPHA may grant an exception to its established subsidy standards if MPHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.

Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment. MPHA may grant a reasonable accommodation for an increase in voucher size due to the need for medical equipment. MPHA may request regular verification of a family's continued need for an additional bedroom due to special medical equipment; and
- A need for a separate bedroom for reasons related to a family member's disability, medical or health

condition

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 licensed physician, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

MPHA will notify the family of its determination within 30 calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal review.

### Determining Family Voucher Size

The following requirements apply when MPHA determines family voucher size:

- The subsidy standards will provide for the smallest number of bedrooms needed to house a family without overcrowding;
- The subsidy standards will be consistent with space requirements under the housing quality standards;
- The subsidy standards will be applied consistently for all families of like size and composition;
- Space may be provided for a family member who is away at school but who lives with the family during school recesses;
- A family that consists of a pregnant woman (with no other persons) will be treated as a two-person family;
- Any live-in aide (approved by MPHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) will be counted in determining the family unit size and will be allocated one separate bedroom. No additional bedrooms are provided for the live-in aide's family, as they are not allowed to live in the unit.
- Unless a live-in aide resides with a family, the family unit size for any family consisting of a single person will be either a zero- or one-bedroom unit, as determined under the MPHA subsidy standards.
- MPHA will not approve the addition of a foster child or foster adult if it will result in the need for a larger unit, according to MPHA occupancy standards or a violation of HQS space standards.
- Foster Children and foster adults are not used to determine voucher size;
- Persons of the opposite sex (other than spouses, and children under age 6) will be allocated separate bedrooms;
- Two children of the opposite sex, over the age of 6, will not be required to share a bedroom; however, they may share a bedroom at the family's request;
- Two adults of the same sex are required to share a bedroom;
- Adults and children of the same sex are required to share a bedroom.
- A same or opposite sex couple that is married, has an interdependent relationship or domestic partnership will be allocated one bedroom;
- 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.

#### **Children in Joint Custody Agreements:**

Children specified in joint custody agreements will be considered family members if the agreement specifies that they live with the parent for 50% or more of the time (at least 183 days a year). MPHA will require verification of the custody agreement which may include school records and or court orders. When more than one applicant or client 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, MPHA 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;

A voucher can be issued to an applicant family only after MPHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance and after the family has attended an oral briefing.

#### **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.

#### **Absences from The Unit**

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. Policies related to specific absences are included below.

Temporarily away from home is defined as less than 180 consecutive days in a twelve-month period.

#### **Absent Family:**

If all family members are absent from a unit for more than 90 consecutive days, housing assistance payments will cease, and the HAP contract and lease will terminate.

#### **Temporarily Absent Family Members:**

Generally, an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. MPHA will require that temporarily absent family members complete and submit required reexamination documents on a timely basis.

#### **Permanently Absent Family Members:**

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

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).

#### **Permanently Absent Head of Household (HOH Transfer)**

A current Head of Household may request to have the voucher transferred to a new head household under specific circumstances, if they will be absent from the household for more than 90 days. The new head of household will assume all the responsibilities and reporting obligations of being the head of household.

To be a household eligible for a transfer of voucher due to absence from the unit;

- There must be dependents in the household that will be impacted by the loss of assistance,
- The new head of household has legal custody and responsibility for the dependents,
- The new head of household is a current adult member of the household.

If the household is not eligible and the head of household still decides to leave the home for more than 90 days, MPHA will begin the process to terminate assistance for the family. Assistance will be terminated the month the 90-day limit is reached.

#### **Verification of Head of Household Absence**

The head of household must supply verification that they will be absent from the unit for more than 90 days, and will be removed as a member of the household. Verification must be written 3rd party verification. If the previous head of household wishes to return to the home they must undergo the process to be added as a new adult add on member. The previous head of household cannot become the head of household again for the family after the transfer of voucher.

Examples of required 3rd party verification include, but not limited to;

- Plane tickets stating the previous head of household is leaving the country,
- Verification from the current landlord the previous head of household has left the unit,
- A lease for a new address signed by the previous head of hold,
- Divorce or separation agreements stating the previous head of household will reside outside the assisted unit,
- Court order for an incarceration sentence more than 90 days,
- Order of protection stating the head of household cannot reside in the assisted unit.

MPHA will use its discretion to request additional verification the head of household has left the unit and will not return within 90 days. MPHA also reserves the right to deny the transfer of voucher if MPHA determines the family is not eligible or the transfer is not appropriate.

#### **Absent Students**

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member as long as verifiable documentation is submitted to MPHA as requested, such as proof of out of state tuition or on campus resident. If information becomes available to MPHA indicating that the student has established a separate household, or the family declares that the student has established a separate household, the individual will not be considered a family member.

#### **Absences Due to Placement in Foster Care:**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403]. If a child has been placed in foster care, MPHA 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. Status of the child placed in foster care will be verified annually.

#### **Absent Head, Co-Head or Spouse Due to Employment/Active Military Service**

A head, co-head or spouse who is absent from the unit more than 90 consecutive days due to employment or active military service will continue to be considered a family member provided that their income is included in the calculation of household income (excludes hostile fire income). Families will be required to provide proof of employment. Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.



### **Absence Due to Medical Confinement:**

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.

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

## **9.4 Voucher Creation**

### **Voucher Issuance**

When an eligible family is selected from the waiting list or when a participant family wants to move to another unit, MPHA issues a Housing Choice Voucher, form HUD-52646. A voucher will be issued to a participant family after eligibility for a move is confirmed and the family has attended a mandatory briefing.

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

The voucher is evidence that MPHA has determined the family to be eligible for the program, and that MPHA expects to have money available to subsidize the family if the family finds an approvable unit. However, MPHA 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 MPHA's housing choice voucher program.

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

## **9.5 Voucher Briefing Process**

When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, and prior to voucher issuance, MPHA will ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both a Family Briefing and provision of a briefing packet containing the HUD required documents and other information the family needs to know to lease a unit under the program.

Applicants are required to participate in a Family Briefing that provides an overview of the program to educate applicants regarding program procedures, family obligations, compliance program requirements, and available housing opportunities. The Family Briefing will be conducted in accordance with Operating Procedures.

Applicants who fail to attend two scheduled briefings, without MPHA approval, will be denied assistance.

Once the family is fully informed of the program's requirements, MPHA issues the family a voucher.

Families may be briefed individually or in groups. Families that attend group briefings and still need individual assistance will be referred to an appropriate MPHA staff person.

At the briefing, MPHA will 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.

Generally, all adult family members are required to attend the briefing. If any adult member is unable to attend, MPHA may waive this requirement as long as the head, spouse or co-head attends the briefing.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, MPHA will provide translation services in accordance with MPHA's LIMITED ENGLISH PROFICIENCY (LEP) PLAN in Appendix C.

## Notification and Attendance

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. MPHA will notify the family of the date and time of the second scheduled briefing

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, a notice of denial will be sent to the family's address of record. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

## Oral Briefing

Each briefing will include 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 MPHA's jurisdiction and any information on selecting a unit that HUD provides;
- An explanation of how portability works. MPHA may not discourage the family from choosing to live anywhere in or outside of MPHA's under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- MPHA will 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;
- The advantages of areas that do not have a high concentration of low-income families;
- 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; and
- Applicable MTW program information

## Video Briefing

Participants will have the option of watching briefings online from anywhere with a computer or smart device. In-person briefings will still be available for those who are interested. The online briefing will be offered in English and Somali. (Videos in production at this time)

## Briefing Packet

The briefing packet will include information on the following:

- The term of the voucher, and MPHA's policies on any extensions or suspensions of the term. If MPHA allows extensions, the packet will 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 MPHA determines the payment standard for a family, how MPHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule;
- An explanation of how MPHA determines the maximum allowable rent for an assisted unit;
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance;
- The HUD-required tenancy addendum, which will 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 MPHA policy on providing information about families to prospective owners;
- MPHA subsidy standards 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;
- Minnesota Department of Health Pamphlet “Lead Poisons Kids”;
- Participant Notice regarding Violence Against Women Act (VAWA);
- At the request of LEP Applicants/Participants, MPHA will provide free interpreter services;
- Toll free telephone number for the Domestic Violence Hotline and the Sexual Assault Hotline;
- Information on how to request a reasonable accommodation;
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form;
- A list of landlords, known to MPHA, willing to lease to assisted families or other resources, i.e. newspapers, online search tools, to help families find units, especially outside areas of poverty or minority concentration;
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to MPHA;
- The family obligations under the program, including any obligations of a welfare-to-work family;
- The grounds on which MPHA may terminate assistance for a participant family because of family action or failure to act;
- MPHA informal hearing procedures including when MPHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing; and
- The advantages of areas that do not have a high concentration of low-income families.
- The following additional information will be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities.
- 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; and
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

### 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. MPHA will 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.

The family obligations of the voucher are listed below.

- The family must supply any information that MPHA 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 MPHA 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 and any other requested documentation.
- Any information supplied by the family must be true and complete.

- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
  - Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.
- The family must allow MPHA 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 violation of the lease.
  - MPHA 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 drug-related or 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.  
As regards VAWA, please see the VAWA policy Appendix
  - Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease by the victim.
- The family must notify MPHA and the owner before moving out of the unit or terminating the lease.
  - The family must comply with lease requirements regarding written notice to the owner.
  - The family must provide written notice, signed by the owner, to MPHA at the same time as the owner is notified.
- The family must promptly give MPHA 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 MPHA. The family must promptly notify MPHA in writing and provide supporting legal documentation of the birth, adoption, or court-awarded custody of a child. The family must request MPHA approval to add any additional occupants of the unit.
  - The request to add an adult family member must be submitted in writing and approved prior to the person moving into the unit. MPHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
  - MPHA will approve the addition of a child to the household upon receipt of (1) a birth certificate; (2) legal proof of adoption; (3) a court order; (4) a delegation of powers of a parent under Minn. Stat. §524.5.211 (2015); (5) written permission of the parent or other person having custody of the child; or (6) if none of the above documents are available, reliable, accurate and objective third-party verification of custody. MPHA will re-determine subsidy standard in accordance with the policies in this chapter.
- The family must promptly notify MPHA in writing if any family member no longer lives in the unit.
- Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses and owner approval.
- If MPHA has given approval, a foster child or a live-in aide may reside in the unit. MPHA has the discretion to

- adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when
- MPHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.
  - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by MPHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify MPHA when the family is absent from the unit.
  - Notice is required under this provision when one or more 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 MPHA prior to the start of the extended absence. An authorized absence may not exceed 90 days.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.
- 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).
- The Family guests or persons under the tenant's control 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 MPHA 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 MPHA 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 MPHA 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.

## 9.6 Voucher Term and Extension

Vouchers are initially issued to Applicants for a maximum term of 120 calendar days. The participant must submit a valid Request for Tenancy Approval within the 120-day period, unless MPHA grants an extension.

## 9.7 Extensions of Voucher Term

Extensions, in a maximum of two 30 calendar day extensions, may be granted if requested in writing prior to the expiration of the initial voucher term. The acceptable reasons for possibly granting extensions will not change from what is currently in place and may require documentation to support the request. MPHA may approve additional extensions, if necessary, as a reasonable accommodation for a person with disabilities.

Extensions to the maximum 120 day and two 30-day extension term of the Voucher may be granted on a case-by-case basis, reasonable accommodation requests, and other reasonable requests related to a MPHA special or strategic initiative. The procedures for granting extensions and the maximum term are set forth in the Operating Procedures.

If it is due to reasons beyond the family's control, as determined by MPHA. Following is a list of extenuating circumstances that MPHA 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 MPHA; or
- Whether family size or other special circumstances make it difficult to find a suitable unit, such as VAWA protections or participation in the VASH or Designated Vouchers for the Disabled program, make finding a unit difficult

MPHA will 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.

Any request for an additional extension must include the reason(s) an additional extension is necessary. MPHA will require the family to provide documentation to support the request and obtain verification from a qualified third party.

MPHA will decide whether to approve or deny an extension request and will timely within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision. The family must be notified in writing of MPHA's decision to approve or deny an extension. MPHA's decision to deny a request for an extension of the voucher term is not subject to informal review.

MPHA 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 MPHA can approve. Discretionary policies related to extension and expiration of search time are described in these Operating Procedures.

## **9.8 Suspensions of Voucher Term**

When a Request for Tenancy Approval is received by MPHA, the term of any initial or extended voucher will be suspended from the date the family submits a request for tenancy approval until the date MHA notifies the family, in writing, whether the request has been approved or denied.

## **9.9 Expiration of Voucher Term**

If the family still wishes to receive assistance, MPHA 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.

Upon expiration of the voucher term or any extension, MPHA will notify the family in writing, to the address on file, that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

## **9.10 Transfer of Voucher to Another Household Member Following Death or Extended Absence**

In the event the Head of Household passes away and there are remaining adult members in the household, a remaining adult member can become the new Head of Household under qualifying circumstances. For a member to become the new Head of Household they must meet one or more of the scenarios listed:

<b>Scenario 1</b>	The remaining member is the spouse or domestic partner of the Head of Household. (Verification may be required)
<b>Scenario 2</b>	One of the remaining adult members is the parent of, or has legal custody, of all minor children that are current members of the household.
<b>Scenario 3</b>	The remaining member is disabled and/or elderly (62 years or older) and is able to live independently or with assistance of a Live in Aide. (If there is more than one member that meets this criterion the voucher will be given to the eldest.)
<b>Scenario 4</b>	There are minor children remaining in the household and a permanent legal guardian that is not a current member moves into the unit to care for the children. (The guardian cannot violate “shared housing” policy by adding a 2 <sup>nd</sup> family to the voucher.)

The following circumstances will not qualify a member or outside person to become the head of household:

- Live in Aides;
- Able bodied non-elderly adult members that are not the spouse, domestic partner or legal guardian of all children in the household. (This includes adult children of the Head of Household);
- The remaining adult member is an add on member;
- Family members that are not currently members of the household;
- Minor children of the deceased Head of Household are moved to the home of a non-member guardian;
- Add on members that are not eligible for at least one qualifying scenario

If there is not a qualified adult to establish as the new Head of Household, the voucher will be terminated and returned to MPHA’s voucher pool. MPHA will use its discretion to determine if a scenario not listed qualifies or disqualifies a person from becoming the Head of Household.

## E - CONTINUED PARTICIPATION

### 10.0 RE-CERTIFICATION

#### 10.1 Recertification Cycles

HUD requires MPHA to complete re-certifications for current participants of the HCV program. Recertifications are completed in two cycles depending on a family's income source and composition. Families composed of one or more able bodied adults or have income from wages will complete an annual recertification for continued participation every year.

Families composed of all disabled or elderly adults and receive income only from fixed income and non-wage sources (Social Security, SSI, Pension) will be re-certified for continued participation on a triennial cycle every three years.

Fixed income families that qualify for the triennial re-certification process must meet the following criteria:

- All adults in the household are verified by the social security administration or MPHA as disabled.
  - If an able-bodied adult is added to the household the family is no longer considered fixed income.

AND/OR

- All adults in the household are considered Elderly (62 years of age or older) AND
- The only income for the family is from a fixed source such as Social Security, SSI, or retirement pension.

(This does not include earned wages.)

o If a family member becomes employed whether they are disabled or not, they will no longer be considered fixed income.

- Employed minor children will not disqualify a family from being triennial, due to income being excluded.
- Families will still be considered fixed-income if they receive MSA, MFIP, or Child Support. o Changes in these benefits will still need to be reported and an interim completed.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest.

Changes in family composition and moves may trigger the need for a recertification before the three-year period. Income reported from the most recent tri-annual recertification will be used for rent calculations between cycles

for triennial families. If a family goes from "Move Status" to "Active Status," the month the family initially leased up in their current unit will be the effective month of the triennial re-certification. The HAP amount will be adjusted annually to keep the subsidy amounts up to date with the current payment standards and rent subsidy tables.

The only circumstances that will change a fixed income family's income is if a new member with income is added or removed, a new source of income is reported, or during the re-certification and lease up processes.

#### 10.2 Pre-Recertification Process

Recertification appointment letters are generated by the HCV administrative assistant and distributed to the ET's to be mailed. Participants are notified of their recertification appointments two-weeks prior to the appointment.

ET's mail the letters to participants along with a re-certification application to be completed by the date of the re-certification appointment. ET's will mark appointment letters for participants requiring an interpreter with the orange interpreter notification sticker to notify the participant an interpreter will be present during their appointment.



The participant is required to complete the application, gather income verifications and any other mandatory documents listed in the appointment letter. Participants will need to bring all of these items to the appointment to complete their re-certification.

Participants are given one opportunity to re-schedule an appointment with their ET, prior to the original appointment date and time.

Prior to the re-certification interview the ET will prepare and review the paperwork required to conduct the interview. It is the ET's responsibility to be prepared to complete the interview accurately. Refer to the attached Interview Checklist before and during the Annual Recertification.

## **PREPARING PAPERWORK**

1. Review the Tenant profile for each participant family
2. Print a copy of the EIV wage report for each family member over the age of 18

Important: The Form 9886 Consent Form must be on file and current before printing EIV

Report. Expiration is 14months after signature. This will help in the process of identifying which members are employed and what, if any, social security or unemployment benefits they receive.

3. Verify all mandatory documents are in the file (Photo ID for all household members 18+, Debts Owed form signed by all household members 18+, updated 214 form with all household members listed, citizenship status identified and signed by all household members 18+.
4. Review the last annual recertification completed to have a base of knowledge about household composition and income to compare to the new information provided.
5. Ensure interpreter has been scheduled if needed.

## **10.3 Recertification Interview Process**

Technicians will conduct the re-certification interview with the families in person. Interviews for LEP families will not be conducted until the interpreter is present. If all adult members are not present the interview will not be conducted unless the missing adult member has a valid reason for not being present. All required paperwork and verifications must still be signed and provided by the missing adult member. Failure for all adults to attend the appointment, sign mandatory documents, or provide verifications will be denied assistance or removed from the household.

ET's will follow these steps while conducting the re-certification interview.

- Verify if an interpreter is needed – If yes, update the family file and re-schedule the appointment with an interpreter
- Ask the family if they have plans on moving this year
- Ask the family if their landlord is increasing the unit rent this year
- Review the application for completeness, accuracy, signatures from all adults, and compare to the previous year application -- ask pertinent questions (reference Tenant Profile again and discuss any changes in income sources and family composition)
- Verify Phone Number – update family file
- Verify E-mail – update family file
- Review the Tenant Profile with the family (this establishes a baseline of information: who we currently have as family members and what income we currently have, if any, in our system).
- EIV Review with Family
- Collect all proof of income information, the income verification should be consecutive and no older than 90

days from the appointment date (if applicable, all asset and expense information as well), review the income with the participant, clarify pay frequency and any changes

- If an adult member has Zero Income – the member and HOH must complete and sign a zero-income form for that member
- If the entire family has zero income, complete the Household Zero Income Form and explain the “90-day zero income recertification” process
- Hennepin County benefit verification – All adults must sign the MFIP benefit release form to verify welfare income via the county benefit verification line
- Obtain and verify any missing mandatory documents (photo IDs, Debts Owed forms for all 18+ household members, all household members listed on 214 with 18+ signatures)
- Collect all appropriate proof for any listed family composition changes, assist the family in completing the proper documentation for the change, and complete a background check for new adult members
- Review voucher size for accuracy – if changed, explain impact to subsidy and update family file
- Verify all 18+ household members FT student Status – if they are a FT student update their member status to “Full Time Student”
- Is there a Rent Increase? Explain Contract Rent Increase process
- Are they moving? Explain Unit Transfer Process
- Review family obligations
- Question and Answer (offer explanation and clarification)

If the family does not attend the appointment, all information is not provided or all adults are not present at the time of the appointment, the ET schedules a Non-Disclosure Appointment within 10 days of the initial appointment.

If the participant does not attend the nondisclosure or provide the requested information by the date of the nondisclosure appointment, the ET notes the file, sends two termination letters VIA USPS Mail, one regular, one certified, along with hearing rules, and VAWA documents (HUD Form 5380— and HUD Form 5382). The termination letter will state the date assistance will be terminated and that the participant will have 15 days from the date of the missed Nondisclosure appointment to either provide the requested information or request a hearing to challenge the termination. The ET will also send the Term of HAP Letter to the landlord notifying them of the last date of assistance. If the participant fails to request a hearing or provide information they will be terminated from the program on the effective date stated on the termination letter.

#### 10.4 Post Recertification Interview Process

If all documents have been received, the Technician;

- Reviews the EIV and completed application
- Updates contact information and verifies household composition
- Verifies voucher size, unit size, and utility responsibility are correct
- If there is a CRI, verify receipt of a signed lease renewal or increase notice, run rent reasonableness using Go Section 8 software
- Performs income calculations and updates participant record
- Identifies income bracket and subsidy amount on appropriate Flat Subsidy Table
  - \*\*\*For Non-rent reform participants, ET verifies utility responsibility and utility allowance. If needed, vendor set-up slip is created and sent to Finance. \*\*\*
- Processes re-certification by running an Action 2 with the MPHA rent calculation software
- ET generates tenant recertification print-out and Future HAP/Rent notifications to mail to the participant and landlord.

- ET case notes and scans all documents in to VH.
- Review family file to ensure a signed HAP contract and rent reasonableness comps for the current unit are entered into the family file.
- If the signed HAP contract is missing place HAP payments on hold and request the landlord to sign a new HAP contract.
- If rent reasonableness comps are missing complete the rent reasonableness process with the current contract rent amount.

### Participant's Responsibility

The tenant needs to review the rent calculation sheets and rent notification letter for correctness, if there is an error in family composition or income it is the tenant's responsibility to contact MPHA to correct the error. Failure to report inaccuracies that result in rent overpayment to MPHA may result in the family entering into a repayment agreement to pay back the overpayment in HAP to MPHA.

### 10.5 Disqualification for Continued Eligibility

Participants can be disqualified from participating in the program for several reasons:

- Failure to complete the mandatory re-certification process
- Violation of the family obligations
- Or reaching zero HAP by having income that exceeds the maximum for the family's voucher size

ET's will complete the full termination or zero HAP process before the family is EOP'd from the program. The participant has the right to challenge their termination by requesting an informal hearing or challenge their zero HAP status by requesting an income review with their ET and HCV supervisor.

## 11.0 SUBMISSION OF THE NOTICE TO VACATE

### 11.1 Unit Transfer

Participant's that wish to move must notify their ET by submitting a "Mutual Notice to Vacate" form signed by the landlord and participant, stating the agreed upon move out month. Other vacate notice verifications will be acceptable as well such as an email from the landlord, written statement from the landlord, or in-house vacate notice form from the landlord. Participants must provide a proper notice to vacate as outlined in their lease agreement, MPHA requests participants provide at least 60-day notice. Participants may only vacate a unit on the last day of the vacate month.

Upon receipt of the vacate notice eligibility technicians will complete the following steps in order:

- Verify the vacate notice and move out date with the property owner,
- Case note the receipt and confirmation of the vacate notice in the tenant file,
- Scan the vacate notice into the tenant file,
- Create and mail the termination of HAP letter for the property owner indicating the final day of assistance,
- Schedule the participant for the unit transfer briefing and voucher issuance appointment.

Landlords that want to terminate the lease of a participant must provide a 60-day notice to vacate to the participant and MPHA. Eviction summons and notifications must be submitted to MPHA before the court date or the date of eviction. Owners must submit these documents via the owner email or fax.

MPHA will cease HAP payments on the agreed upon vacate date and the participant's status will be changed to move status.

All participants that are moving for any reason are required to complete the following steps before leasing up in a new unit:

- Attend the oral unit transfer briefing
- Complete the voucher issuance process
- Submit an RTA for approval and inspection scheduling
- Have a unit that passed an HQS move-in inspection

Participants will have the option of watching briefings online from anywhere with a computer or smart device. In-person briefings will still be available for those who are interested. The online briefing will be offered in English and Somali. (Videos currently in production)

Participants that choose to move within six months of their last annual recertification do not need to complete a new MPHA application for their voucher issuance. Participants only need to provide updated income verification no older than 120 days for all adults and sign the HUD 9886 form release to review family income using EIV.

Upon acceptance of an RTA, the participant will be mailed an RTA acceptance letter to notify the participant the unit has been approved for inspection. The notice will also remind the participant to report any changes in income or family size that may have occurred during the search time. If a participant's income or voucher has decreased and the unit is no longer affordable, the RTA will be denied, inspection cancelled, and a new rent burden worksheet will be calculated for the participant to search for a new unit.

MPHA will not begin payments on a unit until the four steps have been completed and the participant has possession of the unit.

### 11.2 Elective Moves

Participants can elect to terminate their lease and use their voucher to move to a new unit. Participants that elect to move must follow the proper notice to vacate guidelines or MPHA can deny the vacate. Participants are not allowed to move out of a unit they have occupied for less than 12 months from the initial lease up, unless in emergency situations.

MPHA will terminate the HAP contract and HAP payments on the move out date agreed upon by the participant and landlord. The participant will be allowed to hold over in their unit for one additional month past the vacate date if they have trouble locating a new unit, if they remain in the unit beyond the additional month without rescinding their vacate notice or signing a new lease, MPHA will cease HAP payments on the unit and the participant will be responsible for the full rent amount. Landlords can deny the rescinding of the vacate if they have already located a new tenant for the unit.

Participants must complete the steps for the move out and RTA process before they can lease up in a new unit and MPHA begins HAP assistance again.

### 11.3 Mandatory Moves

Participants may be required to move involuntarily due to actions of the landlord, MPHA or Minneapolis City Officials. There are several common reasons a participant would be forced into a mandatory move:

- Landlord terminates the lease agreement and provides a proper notice to vacate
- Landlord evicts the participant from the unit
- The property is foreclosed on and the landlord loses possession
- The city terminates the landlord's rental license or condemns the property for city code violations
- MPHA terminates the HAP contract with the landlord for HQS violations
- The family is under or over housed in the unit (Family size is too small or large for the bedroom size of the unit)
- An event or natural disaster causes extensive damage rendering the unit uninhabitable

Participants that remain in a unit with a terminated HAP contract or revoked rental license will be responsible for the full contract rent amount.

Participants must complete the move out and RTA process before MPHA will begin HAP payments on a new unit.

#### 11.4 Emergency Moves

TBD

#### 11.5 Outbound Portability

HCV participants are able to move anywhere within the United States with their HUD assistance. If participants want to move outside of MPHA's jurisdiction they must submit a portability request form to their technician requesting their file be sent to the HA of the jurisdiction they wish to move to. Participants that wish to port to one of six Twin City Metro Area HA's must have a unit located and an RTA completed. RTA's are not required for participants moving outside the Twin City Metro Area.

The following steps are required before a participant may port to another HA:

- The participant provides their Eligibility Technician with a Vacate Notice signed by the landlord, completed Port-out Request form, RHA Information form completed with the contact information of the HA they wish to port to,
  - Participants must have a completed and approved RTA to request a port to a local housing authority.
  - The RTA must be approved as affordable based on the policies of the receiving housing authority.
- Technician verifies receiving PHA listed on portability form is the correct housing authority,
- Technician reviews "Port out Check List" to ensure mandatory documentation has been collected,
  - Completed Portability Request form listing correct HA,
  - Updated 50058 reflecting all current income and household members,
    - 50058 needs to state date of admission to program and original zip code
  - Update 214 Status with all family members listed on the 50058, signed by all 18+ household members,
  - Current EIV (showing social security number is verified – if not than social security card should be included),
  - Updated income verification no older than 60 days,
    - Income cannot be self-declared for port out's
  - If applicable, Supporting documents for add-on minor children (SS card and Birth Certificate),
  - RTA signed by owner and participant (Local Ports Only),
  - Rent Burden Worksheet with calculations utilizing the receiving HA's Payment standards and

Utility allowance chart.

- If local port – RTAs must be submitted to Receiving Housing Authority by the 15th of the month prior to rental assistance beginning on the 1st or by the 1st of the month for rental assistance beginning on the 15th of the month,
- Out of State ports do not have specific receipt dates.
- Forward completed port out packet to the portability ET for submission to the receiving HA.

#### Portability ET Port Packet Submission to Receiving HA

- The ET will create Billing sheet- page 1 of the 52665;
- Create HCV Fax Cover letter
- Create Port out cover letter with MPHA tax ID and correct program identified (FSS, FUP, VASH, NED, MOBILITY)
- Verify all documents from Port Out Checklist Form are provided
- Re-verify affordability

- Determine Voucher size based on the Receiving PHA's bedroom policy
- Create the Port-out Processing Form (if local port)
- Create the Out of State Processing Form (if out-of-state port)
- Send to Requested Housing Authority (RHA)
- Log in Smartsheet to track billing deadline
- Note in family file that Port file has been sent to Receiving HA
- Scan and attach the paperwork that was sent to the RHA in the family record

#### 11.6 Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, MPHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit. MPHA will only make HAP payments beyond a requested vacate date if MPHA approves a family to remain in their current unit an additional month while in the process of searching for a new unit.

i.e. A family submits a vacate notice for May 31st, the owner will not receive HAP payments starting June 1st.

#### 11.7 Processing timeline for Unit Transfers and Lease Ups

##### Requesting the Signed Lease

Upon receiving notification of a passed HQS Move-In inspection, eligibility technicians will request a lease from the property owner, signed by both the participant and property owner, and the signed HAP contract, signed by the Technician and property owner, within two business days of the passed inspection. The technicians will make the lease request via phone and email to the property owner, and case note their effort to request the lease. If the lease is not received within four business days of the passed inspection the Community Outreach Coordinator will be notified and they will attempt to contact the property owner to request the lease. HAP payments will remain on hold until a signed lease and signed HAP contract is received by MPHA from the property owner or manager.

##### Submission of The Signed Lease, HAP Contract and Other Owner Documents

Property owners and managers will submit all leases, HAP Contracts and all other owner documentation via the MPHA Owner email [owners@mphaonline.org](mailto:owners@mphaonline.org) or fax. Documents submitted by owners and managers will be logged and date stamped in Smart Sheet to create a second digital record. Eligibility technicians will be notified of owner submissions via an email from Smart Sheet. Technicians will review submissions and take the appropriate action for the submission. Leases will be reviewed by technicians to make sure the terms of the lease are not different from the submitted RTA. Changes to the terms stated in the RTA must be approved by MPHA, if the changes in terms make the unit unaffordable, unreasonable, or in violation of MPHA policies, or state or local law; will be denied and the tenant will need to search for a new unit.

Technicians will have ten business days from the receipt of a lease signed by the owner and participant to complete the lease up/unit transfer process. Technicians will complete the action, mail the rent notification letters, scan application materials into the family's file, and either release HAP payments or place HAP payments on hold if a signed HAP contract has not yet been submitted to MPHA. Completed Lease ups will be saved in the participant's file as well as a second record in Smart Sheet.

## F - COMPLIANCE

### 12.0 PROGRAM PARTICIPATION COMPLIANCE

#### 12.1 Preventing Errors and Program Abuse

MPHA anticipates that families, owners, and PHA employees will comply with program requirements and make reasonable efforts to avoid errors and adhere

To ensure that the PHA's HCV program is administered effectively and according to the highest ethical and legal standards, MPHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions. MPHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key MPHA forms and form letters that request information from a family or owner.

MPHA staff will be required to explain the contents of all HUD- and PHA-required forms if requested.

MPHA will provide each MPHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

#### When the PHA Will Investigate

MPHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for MPHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

#### Prohibited Participant and Applicant Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].
- Any of the following will be considered evidence of family program abuse:
- Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

- Admission of program abuse by an adult family member
- The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the PHA
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA
- Residing in the unit with an assisted family

### Consent to Release of Information [24 CFR 982.516]

MPHA may investigate possible instances of error or abuse using all available MPHA and public records. If necessary, MPHA will require HCV families to give consent to the release of additional information.

### Analysis and Findings

MPHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation MPHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to MPHA, and (3) what corrective measures or penalties will be assessed.

### 12.2 Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether MPHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, MPHA may take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA may take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.



MPHA will inform the relevant party in writing of its findings and remedies within 30 Calendar days, if practicable, of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the families right to appeal the results through the informal review or hearing process.

### 12.3 Penalties for Program Abuse

#### Participants and Applicants

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- MPHA may require the family to repay excess subsidy amounts paid by the PHA, as described IN SECTION 14.1.
- MPHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- MPHA may deny or terminate the family's assistance following the policies set forth in the MPHA Operating Procedures.
- MPHA may refer the family for state or federal criminal prosecution.

#### Property Owners

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, in accordance with the MPHA operating procedures.
- Terminate the HAP contract.
- Bar the owner from future participation in any MPHA programs.
- Refer the case to state or federal officials for criminal prosecution.

### 12.4 Exemptions for Program Participation Requirement

### 12.5 Temporary Exemption

### 12.6 Program Participation Requirement Compliance Annual Review Process

## 13.0 TERMINATION OF HOUSING ASSISTANCE & REPAYMENT AGREEMENTS

### 13.1 Repayment Agreements

Repayment agreements will be made between MPHA and program participants when MPHA has determined income or change in family composition was unreported or underreported by a participant, resulting in over payment of HAP dollars. Repayment agreements can also be made with participants due to an error by MPHA staff resulting in over payment of HAP. Entering a repayment agreement due to staff error will be determined by the Eligibility Technician's supervisor. Families that fail to repay the overpaid HAP amount or violate other portions of the repayment agreement will be moved for termination from the program.

#### Determining if Income is Unreported

1. The family's EIV will be reviewed every time an action is completed to compare what has been reported and what is currently in the family file to the EIV.
2. The family's file and past actions will be reviewed to see if income is missing, not correctly entered and matches the EIV report.
3. The start date (if available in EIV or other documents), the YTD wage amount and pay period dates on newly reported income verifications will be reviewed to ensure the 30-day reporting policy has been met.

- a. All income changes should be reported within 30 days of the hire date.
- b. Minimum number of pay stubs for income verification: 1 monthly, 2 bi-weekly/semi-monthly, or 3 weekly pay stubs.
- 4. The family composition in the family file and past actions will be reviewed as well to ensure newly reported family changes should not have impacted the HAP amount or voucher size at an earlier date.

If a technician has determined a family has not reported income or a family composition change, the next step is for the technician to use the information collected to calculate the repayment.

If the technician does not have enough information to know the extent of the unreported information or calculate past income a nondisclosure appointment is scheduled for the family to provide missing documentation. Technicians can also request 3rd party verification from employers, landlords, and other government agencies. Families that fail to submit requested information at the nondisclosure appointment will be sent a termination letter.

### Calculating the Repayment Agreement

Technicians will determine when the unreported income or change should have been reported and the effective date of the HAP change that should have occurred. Technicians will go as far back as the start date for the unreported change for repayment calculation. MPHA will look back as far as three years in a tenant file for unreported income or changes.

If the period of unreported income or change extends over different re-certification periods the repayment will use the correct subsidy table or payment standard for the period being reviewed.

i.e. Unreported income period extends from 2018 annual – post 2019 annual, both the 2018 and 2019 subsidy tables will be used.

1. The income that was not reported will be annualized using the information that is able to be collected (Paystubs, benefit letters, EIV, etc.).
  - a. If the EIV is the only verification available, the quarters available on the EIV will be used to get a quarterly average of income, or if a full year has passed; sum the 4 available quarters together to calculate an annual amount.
  - b. If pay stubs or other 3rd party verification is provided, the traditional method for annualizing income will be used.
  - c. All deductions including the WFI, if applicable, will be applied while recalculating the income for the repayment.
2. After annualizing the unreported income, it is added to all other income that was reported in the household during the repayment period being reviewed.
3. After the adjusted income for the family is calculated, it is used to determine the HAP amount that should have been paid for each month from the time the income should have been reported to the present date.
4. If interims were completed in the time frame under review, those changes will be accounted for while calculating the HAP overpayment for each month.
  - i.e. Four months after the start date of the repayment period the participant's child stopped receiving SSI. Subtract the SSI from the adjusted income and adjust the HAP for the repayment on the effective month of the interim removing the SSI.
5. The total over payment is calculated by comparing the new corrected HAP amount to the HAP that was actually

paid. The difference between the two HAP amounts is the amount overpaid by MPHA for the month. Sum the overpayment totals to calculate the total amount owed by the participant to MPHA. The “Repayment Agreement” Excel spreadsheet will be used to calculate the total repayment and as documentation for the family file.

i.e. HAP paid \$746.00 Nov. – Corrected HAP \$633.00 Nov.

$\$746.00 - \$633.00 = (\$113.00 \text{ owed in Nov. for over paid HAP})$

Nov. is the starting month of the repayment because it is the month the unreported change would have taken effect if reported correctly.

Change in Subsidy Table Year (2018 – 2019)

Eligibility technicians will have their repayment calculations reviewed by their supervisor for approval before scheduling the family for a nondisclosure to discuss the repayment.

### Repayment Time Frames and Limits

Three is the maximum number of years MPHA will go back and collect if there is unreported income. If unreported income exceeds the three-year maximum the supervisor will be notified, and they will use their discretion to decide if further action is necessary.

i.e. The current year is 2019, a technician discovers unreported income for the 2015 annual, MPHA would not pursue a repayment, but will notify the supervisor.

There is not a minimum amount of money owed in which MPHA would choose not to pursue a repayment agreement. If unreported income is discovered in any amount for any amount of time, the supervisor will be notified.

The starting month of a repayment is the effective month of the rent change if the unreported income were reported correctly.

### Entering a Repayment Agreement

After receiving approval from the supervisor, Eligibility Technicians will schedule a nondisclosure appointment with the participant and supervisor. The Technician will complete the repayment agreement write up using the “Repayment Agreement” Word template, and organize the evidence supporting the repayment.

The repayment agreement shall state:

- The section in the Plan, or Section 8 information packet that the he participant violated;
- The monthly retroactive payment is in addition to the family’s regular rent contribution and is payable to MPHA;
- That a late or missed payment is a default of the agreement and may result in termination of rental assistance;
- That all payments shall be at least \$50 and be rounded to the nearest dollar; and
- The last payment should be the remaining balance on the agreement.

During the nondisclosure appointment, the participant will have the opportunity to explain the unreported change or income to the supervisor. The supervisor will determine if MPHA will enter into a repayment agreement or move to terminate the participant’s assistance. The participant will sign the agreement, or a termination letter will be mailed to the participant.

If the repayment amount is under \$5000.00 and the supervisor determines there are no other reasons to move for termination, MPHA will enter an agreement for a repayment period of 24 months or less at a minimum of \$50.00 per month.

If over \$5000.00, there is no agreement. Typically, MPHA will move to termination. Instances of unreported income

over \$5000.00 will be reported to OIG for possible investigation.

#### **During the Repayment Agreement**

Once the agreement is signed by both the technician and participant, the agreement is scanned into the tenant's file and a copy is emailed to Finance. There, an individual ledger is created to track payments.

Finance will send out monthly repayment notices to the participant. Payments are sent by mail to finance, cash payments are not accepted. Payments are entered onto the active spreadsheet.

Finance tracks the payments and if the participant misses three consecutive payments, Quality Control (QC) is notified by placing them on the inactive spreadsheet maintained on the A/R drive.

Quality Control now manages the participants on the inactive spreadsheet. Once QC is notified of a default on the repayment agreement, a final "Past Due Notice" is sent to the participant.

Quality Control collects all payments and forwards them to Finance until the debt is paid in full. WFI can now be given without a 30-day notice. (If Applicable)

The Eligibility Technician will need to complete an interim to recalculate the Family's HAP amount with the reinstated WFI exclusion. (If Applicable)

#### **Termination of Repayment Agreement**

If the monthly past due notice is not paid within ten business days, a termination letter will be mailed for defaulting on the repayment agreement. The termination letter is sent via both regular and certified mail.

The participant has ten business days to respond to the termination letter and to request a hearing. The Participant can pay off the debt or the amount that is in arrears to cancel the termination process.

If the participant does not request a hearing or make a payment within the stated time frame, a 30-day "Termination of HAP" notice will be mailed to the property owner.

If the participant is terminated for violating the repayment agreement, Finance is notified of the termination, and places a request that the terminated participant be placed onto Revenue Recapture to collect the debt. The participant will be mailed a "Revenue Recapture Notice Letter" to notify them MPHA will be pursuing debt collection.

### **13.2 Criminal Prosecution**

When MPHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, MPHA will

refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

### **13.3 Cancellation of Proposed Termination**

#### **13.4 Proposed Termination Process**

## **14.0 INFORMAL REVIEW, INFORMAL HEARING AND FILE REVIEW**

### **14.1 Informal Review Process**

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,” and need not be as elaborate as the informal hearing requirements.

A request for an informal review must be made in writing and delivered to MPHA in person, by first class mail, fax or email, by the close of the business day, no later than 10 business days from the date of MPHA’s denial of assistance.

The informal review must be conducted by a supervisor, other than the one who made or approved the decision under review.

In rendering a decision, MPHA 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. MPHA 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, MPHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, MPHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

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.

#### 14.2 Informal Hearing Process

MPHA offers an informal hearing for certain MPHA determinations relating to the individual circumstances of a participant family. The purpose of the informal hearing is to consider whether MPHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and MPHA policies.

MPHA will not 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
- Circumstances for which MPHA provides 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 MPHA’s utility allowance schedule
  - A determination of the family unit size under MPHA’s subsidy standards
  - A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under MPHA’s subsidy standards, or
  - MPHA 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 MPHA 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
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.
- A determination to deny portability
- A determination to deny a reasonable accommodation request
- Circumstances for which an informal hearing is not required are as follows:
- Discretionary administrative determinations by MPHA
- General policy issues or class grievances
- Establishment of MPHA's schedule of utility allowances for families in the program
- An MPHA determination not to approve an extension or suspension of a voucher term
- An MPHA determination not to approve a unit or tenancy
- An MPHA determination that a unit selected by the applicant is not in compliance with the HQS
- An MPHA determination that the unit is not in accordance with HQS because of family size
- A determination by MPHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

A request for an informal hearing must be made in writing and delivered to MPHA in person, by first class mail, by fax or by email, by the close of the business day, no later than 10 business days from the date of MPHA's decision or notice to terminate assistance.

MPHA will schedule and send written notice of the informal hearing to the family within 20 business days of the family's request.

The family may request to reschedule a hearing one time 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, MPHA 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 MPHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. MPHA 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.

#### **Pre-Hearing Right to Discovery**

Participants and MPHA are permitted pre-hearing discovery rights. The family will be given the opportunity to examine, before the hearing, any MPHA documents that are directly relevant to the hearing. The family will be allowed to copy any such documents at their own expense. If MPHA does not make the document available for examination on request of the family, MPHA may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

The Participant will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The Participant must request discovery of MPHA documents no later than 72 hours prior to the scheduled hearing date. MPHA must be given an opportunity to examine, at the MPHA offices before the hearing, any family documents that are directly relevant to the hearing and make copies at its own expense. The Participant must provide HCV with any documentation that will be brought to the Hearing, or it will not be allowed to be used at the Hearing. The documentation must be provided to the HCV offices no less than 3 business days prior to the Hearing. The Participant must provide HCV with the names, addresses and relationship of any person that will be attending the Hearing on their behalf; prior to the

Hearing, or they will NOT be allowed to attend the Hearing. The names, address and relationship of attendees MUST be provided to the HCV offices no less than 3 business days prior to the Hearing.

#### **Participant's Right to Bring Counsel**

At its own expense, the Participant may be represented by a lawyer or other representative at the informal hearing. However, as per previously stated policy, the Participant must provide the name, addresses, and relationship of any person who will be attending the hearing with them 3 business days in advance of the hearing.

#### **Informal Hearing Officer**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

MPHA has designated the following to serve as hearing officers: MPHA Hearing Officers

Conflict Resolution Center Hearing Officers

#### **Attendance at the Informal Hearing**

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- MPHA will comply with its LEP, Reasonable Accommodation, and VAWA policies. See Appendixes B, C, and D.

#### **Conduct at Hearings**

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.

Participation of attendees will be restricted to providing statements of facts only. Either party may make a record of the proceedings at that party's own expense;

The Participant or MPHA will make any record available to the other party for that party's purchase;

Neither party is required to create or provide a written transcript of the hearing record.

#### **Evidence**

MPHA and the Participant are given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to MPHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

**Hearsay Evidence:** is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either MPHA or the Participant fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

#### Hearing Officer's Decision

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.

In rendering a decision, the hearing officer will consider the following matters:

- PHA Notice to the Family: The hearing officer will determine if the reasons for MPHA's decision are factually stated in the Notice.
- Discovery: The hearing officer will determine if MPHA and the Participant were given the opportunity to examine any relevant documents in accordance with MPHA policy.
- MPHA Evidence to Support MPHA's Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support MPHA'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 MPHA policies. If the grounds for termination are not specified in the regulations or in compliance with MPHA policies, then the decision of MPHA will be overturned.

The hearing officer will issue a written decision to MPHA no later than 10 business days after the hearing. A copy of the hearing must be furnished or mailed to the Participant by MPHA within 10 business days of receipt from the hearing officer.

#### Procedures for Rehearing or Further Hearing

MPHA will not consider rehearing or further hearing.

#### PHA Notice of Final Decision

MPHA is not bound by the decision of the hearing officer for matters in which MPHA 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 MPHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, MPHA must notify the Participant of the determination and the reason for the determination within 10 business days.

MPHA will mail a "Notice of Final Decision" including the hearing officer's report, to the Participant and their representative. The participant will be mailed the original "Notice of Final Decision." A copy of the "Notice of Final Decision" along with the original proof of mailing will be maintained in MPHA's files.

### [15.0 HUMAN DEVELOPMENT SERVICES](#)



### 15.1 Stable Homes Stable Schools

Stable Homes Stable Schools (SHSS) is a collaborative program MPHA has developed with the City of Minneapolis, Hennepin County, Minneapolis Public Schools, and The Pohlad Foundation. There are two parts of the SHSS

program, Rent Subsidy and Housing Stability, funded by a mix of Pohlad Foundation grant funds, city funding, and MPHA funds. Families that qualify for the program must have a child enrolled in one of the 15 Minneapolis schools identified as having the largest populations of students experiencing homelessness and poverty. Families must meet program eligibility criteria for assistance and may be denied if criteria are not met.

#### Rent Subsidy Program

The goal of the Stable Homes Stable Schools Rental Assistance is to improve the overall educational value of students attending any of the 15 previously identified schools by providing funding and resources to stabilize families experiencing homelessness. Each referral will be assessed to determine eligibility of receiving rental assistance or other services. Although some families may not qualify, we are committed to assisting families with direction to other local resources and assistance available. The YMCA will provide additional case management services to families

School social worker will pre-screen families to assess if the family qualifies for the rental assistance program. Qualifying families must have a child enrolled in one of the 15 identified schools and currently homeless. If it is determined that the family may qualify the school social worker will then complete an online referral form that is submitted to the MPHA Service Coordinator. The Service Coordinator will meet with the family and make the final determination of eligibility and subsidy size.

The Rental Assistance Service Coordinator can be contacted by email or fax – [SHSS@mplspha.org](mailto:SHSS@mplspha.org) or 612-638-4120.

#### Housing Stability Fund

The goal of the Stable Homes Stable Schools Housing Stability Fund is to prevent homelessness by stabilizing the housing of a housed family with one-time financial assistance. The assistance is available to families with children attending one of the 15 identified schools. The school social worker will assess families in crisis for eligibility and submit a referral if the family is determined to be eligible. Each referral will be assessed by the MPHA Housing Stability Service Coordinator to determine eligibility of receiving one-time financial assistance. The solution may not be financial; in these cases, MPHA is committed to directing families to local resources and assistance available to quickly address the identified issue in order for the family to remain housed. While non-financial supports may be available more than once, financial assistance will be issued only once to an eligible family.

The Housing Stability Service Coordinator can be contacted by email or fax – [SHSS@mplspha.org](mailto:SHSS@mplspha.org) or 612-638-4120.

## G - ELIGIBILITY & SERVICES FOR DISABLED PERSONS

### 16.0 DISABLED APPLICANTS AND PARTICIPANTS

#### 16.1 Program Eligibility

##### A Qualified Person with A Disability

One who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without reasonable accommodation or modification.

#### 16.2 HUD's Definition of a Disabled Person for Program Eligibility

##### Disabled Family

A disabled family is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance. MPHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

##### A Person with A Disability Is One Who:

- Has a physical or mental impairment that substantially or as regards the Minnesota Human Rights Act and Minneapolis Ordinances materially limits one or more major life activity;
- Has a record of such impairment; or
- Is regarded as having such impairment.
- Specifically, excluded from the definition of a disability under the Americans with Disabilities Act are:
  - Sexual behavior disorders such as transvestitism, pedophilia, exhibitionism and voyeurism.
  - Compulsive gamblers, kleptomaniacs or pyromaniacs
  - Homosexuality, bisexuality, gender disorders and transsexual conduct

Under the Americans with Disabilities Act, the disability must be current and substantially limit one or more major life activity. Under certain circumstances, physical conditions such as high blood pressure and poor vision, which are corrected by medication or another measure, are not disabilities.

Under 24 C.F.R. § 100.201 (a)(2), a disability does not include the current illegal use of a controlled substance. Also, being a transvestite is not a disability. Also, for purposes of eligibility for low-income housing a person does not have a disability solely based on any drug or alcohol dependence.

##### Major Life Activity

Includes but is not limited to caring for one's self, doing manual tasks, walking, seeing, sleeping, hearing, speaking, breathing, learning and working.

##### Mental and Physical Disabilities

A mental impairment may include but is not limited to mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

A physical impairment may include the following body systems: neurological; musculoskeletal; senses; respiratory; cardiovascular; reproductive, digestive, genito-urinary, hemic and lymphatic; skin; and endocrine.

A mental or physical impairment may include but is not limited to cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, and mental retardation.

## A Qualified Person with A Disability

One who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without reasonable accommodation or modification.

### 16.3 Acceptable Disability Verification Methods

MPHA will verify the existence of a disability in order to allow certain income disallowances and deductions from income. MPHA will use HUD's definition of disability in 24 CFR 5.403, as may be amended to verify a disability for these purposes. MPHA will not inquire about the nature or extent of a person's disability.

Third-party verification will 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].

If a person's disability is obvious or otherwise known to MPHA, 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 MPHA, MPHA will 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.

MPHA will not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If MPHA receives a verification document that provides such information, MPHA will not place this information in the tenant file. Under no circumstances will MPHA request a participant's medical record(s).

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:

- 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

## 17.0 REASONABLE ACCOMMODATIONS

### 17.1 Statement of Policy

MPHA's policy is to comply with the Rehabilitation Act, § 504 29 U.S.C. § 794, as implemented by 24 C.F.R. § 8, Americans with Disabilities Act, 42 U.S.C. § 2101 as implemented by 28 C.F.R. § 35 and 29 C.F.R. § 1630, Fair Housing Act, 42 U.S.C. § 3601 as implemented by 24 C.F.R. §100, Minnesota Human Rights Act, Minn. Stat. § 363 and Minneapolis Civil Rights Ordinance.

MPHA shall not discriminate or retaliate against an applicant, public housing resident, Section 8/HCV participant or other program recipient because of disability, race, color, creed, religion, national origin or ancestry, familial status, sex, sexual preference, veteran status, public assistance status, marital status, age, or political affiliation. MPHA shall not retaliate against a person who claims discrimination. MPHA shall not solely on the basis of a disability, deny benefits to an otherwise qualified person. MPHA shall give a qualified person with a disability through a reasonable

accommodation an equal opportunity to participate in and benefit from its housing, aid, benefit or service.

By means of a reasonable accommodation, MPHA shall give a qualified person with a disability housing, aid, benefit or service that is equally effective as that provided to others without a disability. The term “equally effective” is not intended to produce an identical result or level of achievement as a person without a disability but is intended to give a person with a disability an equal opportunity to obtain the same result or level of achievement.

This Policy does not enlarge MPHA’s duty under any law, regulation or ordinance. If this Policy conflicts with applicable law, regulation or ordinance, the applicable law, regulation or ordinance shall prevail. This Policy shall apply to all MPHA programs designed to provide financial or advisory assistance to persons seeking housing, including the Family Self Sufficiency Program and Housing Counseling Programs.

MPHA strives to ensure that persons with disabilities have full access to MPHA’s programs and services. This responsibility begins with the first inquiry of an interested household and continues through every programmatic area of the HCV program.

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.

A reasonable accommodation may include an exception to MPHA’s rules, policies or procedures. While MPHA may accept the judgment of the person with the disability that an accommodation is needed, MPHA may require the person to show the need for an accommodation or to permit an inspection of the unit. Also, MPHA may investigate alternatives to the requested accommodation and/or alternative methods of providing the requested accommodation. MPHA will select an appropriate accommodation which is most convenient and cost effective for MPHA.

A disabled person is required to show documentation of the disability and the need for the accommodation. Without such documentation, MPHA need not offer an accommodation such as a companion or service animal. If MPHA allows a disabled person to have a companion or service animal, the person must maintain health and safety standards in keeping the animal. Animals that are dangerous or potentially dangerous under federal law or regulation, state law or local ordinance are not permitted. MPHA will not approve a reasonable accommodation move when MPHA is terminating assistance for or a reason unrelated to the disability.

The person with the disability has the burden to show that there is a connection between the disability and the accommodation and a connection between the disability and the lease violation. The person must also show that the accommodation is likely to enable the person to comply with the lease or the program and that the person will accept the necessary assistance. However, MPHA cannot amend the program, requiring the person to accept such services.

MPHA may deny admission to the program if the rejection of the services results in conduct that violates the program. For example, MPHA may not terminate a participant’s assistance for not taking a medication, but may terminate for a program violation resulting from not taking the medication.

MPHA may review all previously approved Reasonable Accommodations. The requesting party, applicant, or participant has the burden to show that the request is linked to the disability, is necessary to afford the person an equal opportunity to enjoy public housing and is possible to implement. Equal opportunity means that the program is equally accessible to disabled and non-disabled persons. For example, a reasonable accommodation is not intended to put a person first in line on any waiting list. Thus, three key elements are necessity, equal opportunity and reasonableness.

#### **Reasonable Accommodation Exceptions**

A reasonable accommodation may include an exception to MPHA’s rules, policies and procedures. If an applicant or

recipient can show that the failure to comply with a rule, policy or procedure was due to a disability, MPHA may reinstate the person's status. This may include reinstating the person to a waiting list at an original spot or setting aside the termination or eviction procedures.

An exception to MPHA's rules, procedures and policies does not require a lowering or a waiver of the essential requirements of a lease or program. If a participant refuses services or another reasonable accommodation, and violating conduct continues, MPHA may take the same action as it would with a person without a disability.

### **Undue Hardship**

MPHA has the burden to show that the reasonable accommodation would result in an undue hardship. An undue hardship is a significant difficulty or expense or undue financial or administrative burden.

## **17.2 Definition of Disability for Reasonable Accommodations**

Under the HCV program, special accommodations are available rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Appendix C, DEFINITIONS RELATED TO DISABILITIES 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. Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent MPHA from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies in this Plan.

### **Disability Disabled Family**

A disabled family is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance. MPHA will make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

### **A Person with A Disability Is One Who:**

- Has a physical or mental impairment that substantially or as regards the Minnesota Human Rights Act and Minneapolis Ordinances materially limits one or more major life activity;
- Has a record of such impairment; or
- Is regarded as having such impairment.
- Specifically, excluded from the definition of a disability under the Americans with Disabilities Act are:
  - Sexual behavior disorders such as transvestitism, pedophilia, exhibitionism and voyeurism.
  - Compulsive gamblers, kleptomaniacs or pyromaniacs
  - Homosexuality, bisexuality, gender disorders and transsexual conduct

Under the Americans with Disabilities Act, the disability must be current and substantially limit one or more major life activity. Under certain circumstances, physical conditions such as high blood pressure and poor vision, which are corrected by medication or another measure, are not disabilities.

Under 24 C.F.R. § 100.201 (a)(2), a disability does not include the current illegal use of a controlled substance. Also, being a transvestite is not a disability. Also, for purposes of eligibility for low-income housing a person does not have a disability solely based on any drug or alcohol dependence.

### **Major Life Activity**

Includes but is not limited to caring for one's self, doing manual tasks, walking, seeing, sleeping, hearing, speaking, breathing, learning and working.

## **Mental and Physical Disabilities**

A mental impairment may include but is not limited to mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

A physical impairment may include the following body systems: neurological; musculoskeletal; senses; respiratory; cardiovascular; reproductive, digestive, genito-urinary, hemic and lymphatic; skin; and endocrine.

A mental or physical impairment may include but is not limited to cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, and mental retardation.

### **A Qualified Person with A Disability**

One who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without reasonable accommodation or modification.

## **17.3 Reasonable Accommodation Communication Methods**

MPHA shall make reasonable accommodations to communicate with applicants, public housing tenants, Section 8 participants, other program recipients and members of the public. Reasonable accommodations may include using auxiliary aids such as interpreters for applicants, Braille materials, large print materials, audio tapes, note takers or telecommunication devices for deaf persons. MPHA is not required to provide devices that are of a personal nature or that are prescribed for personal use or study.

### **Process for Requesting a Reasonable Accommodation**

- A participant/applicant or a participant/applicant's representative should submit a request for a reasonable accommodation to their Eligibility Technician, who will schedule the Informal Hearing with a Hearing Panel.
- MPHA will process the request and if necessary investigate or obtain additional information within 30 days after receipt of the request.
- MPHA will inform the applicant or participant of a denial, approval or the need for ongoing investigation.
- If MPHA denies the request, MPHA will offer an Informal Hearing in compliance with its Administrative Plan.

When issuing a housing voucher to a family with a disabled person, MPHA shall include a current listing of available accessible units known to it. If necessary, MPHA will offer other assistance to the family in locating an available accessible dwelling unit. MPHA shall consider the special problems of a disabled person in locating accessible housing when considering requests for extensions of housing vouchers.

If necessary, MPHA shall request an exception to fair market rents to allow a Section 8 voucher holder to rent an accessible unit.

### **A Disabled Person's Compliance with MPHA's Rules, Policies or Procedures**

## **17.4 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:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

MPHA will approve a live-in aide if needed as a reasonable accommodation, to make the program accessible to and usable by the family member with disabilities. Live-in aides who are unauthorized occupants in the unit will not be considered household members.

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.

A family's request for a live-in aide must be made in writing; however, MPHA may assist a disabled family member with this request.

In addition, the family and live-in aide will be required to submit a certification form provided by MPHA, 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, and (3) There is no other reason for the aide to reside in the unit (i.e. the individual can demonstrate they have a previous residence they left in good standing), and (4) qualified to provide services as a live-in aide. The PHA may request proof of ability to provide necessary supportive services.

If approved as part of a reasonable accommodation, MPHA will only allow family members of live-in aides to reside in the unit if the addition of the live-in aide's family members (limited to one minor) does not result in an under housed situation as determined by MPHA's subsidy standards. For example, if a live-in aide has a daughter, the live-in aide's daughter may reside in the unit, provided the daughter shares the bedroom with her mother or another household member.

- Requiring approval of the live-in aide by the owner of the unit
- Ensuring that the need for and eligibility of a live-in aide is verified annually at recertification

#### Verifying the Need for A Live-In Aide

Written verification will be required from a reliable, knowledgeable medical 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 (at least 50 years of age), or disabled family member. MPHA may request additional documentation from the knowledgeable provider in order to determine the outcome of the request for a live-in aide.

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

- Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- Is subject to a lifetime registration requirement under a State Sex offender registration program;
- Committed drug-related criminal activity or violent criminal activity; or
- Currently owes rent or other amounts to MPHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The PHA may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under MPHA's subsidy standards for an unidentified live-in aide.

MPHA will notify the family, in writing, of its decision regarding the live-in aide. Within 30 business days of receiving a request for a live-in aide, including all required documentation related to the request, MPHA will notify the family of its decision in writing.

### 17.5 Reasonable Accommodation Decisions

#### Informal Hearing

If MPHA denies a request for a reasonable accommodation MPHA will offer the person, the opportunity to request an Informal Hearing as provided in this Administrative Plan.

Every individual and family admitted to the HCV program must meet 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 MPHA to confirm eligibility and determine the level of the family's assistance.

## Reasons to Deny an Accommodation

MPHA shall make a reasonable accommodation for a physical or mental impairment of a qualified applicant or recipient unless MPHA shows that:

- The accommodation would impose an undue financial and administrative burden;
- The accommodation will fundamentally change the nature of the program;
- The accommodation would pose a direct threat to others;
- The accommodation will create an unsafe condition;
- The accommodation would result in substantial physical damage to MPHA's property or the property of others;
- The person cannot meet the essential eligibility requirements;
- The request is not a request for a reasonable accommodation;
- There is a lack of documentation of the disability;
- The documentation of the disability lacks credibility or foundation;
- The accommodation has failed in the past and the person cannot show new circumstances as to why the accommodation will likely work in the future;
- The request is based upon a personal preference;
- In the case of extra bedrooms or space that the person is not using the space for the intended reasonable accommodation; or
- Other reasons as provided by law or regulation.

For instance, a reasonable accommodation is not a personal preference. A personal preference is the liking of something over another. In addition, a reasonable accommodation does not require MPHA to provide counseling, medical or social services that are outside the scope of services provided to other persons.

MPHA may also deny a request for a reasonable accommodation if the person does not show necessity, an equal opportunity and reasonableness or if the party does not permit MPHA to inspect the unit for purposes related to the reasonable accommodation request or denial.

## Reasonable Accommodation and Payment Standards

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, MPHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

**Medical Equipment** – Although MPHA may approve an additional bedroom for medical equipment if the need is documented by a health care provider, the actual equipment in the extra bedroom should be verified by MPHA during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, MPHA will reduce the subsidy standard and corresponding payment standard at the family's next annual reexamination. MPHA may take further action, if it believes any family obligations under 24 CFR Section 982.551 were violated

## MTW Policy—Reasonable Accommodation for Additional Subsidy

MTW households may request, as a reasonable accommodation for an individual with disabilities, a higher subsidy. When an accessible unit is needed for an individual with disabilities and the rent is reasonable, MPHA may increase the subsidy by up to 10% of the flat subsidy amount or a maximum of 120% of the Fair Market Rent for PBV.

### Example

Assume a household meets the RA criteria and that the contract rent is deemed reasonable.

- Subsidy = \$600
- Contract Rent = \$1100



MPHA will determine the increase in the subsidy as follows.

- Maximum Additional Subsidy = 10% multiplied by \$600
- Revised Subsidy = \$600 plus \$60 = \$660

#### MTW Policy—Reasonable Accommodation for Additional Subsidy

MTW households may request, as a reasonable accommodation for an individual with disabilities, a higher subsidy. When an accessible unit is needed for an individual with disabilities and the rent is reasonable, MPHA

may increase the subsidy by up to 10% of the flat subsidy amount or a maximum of 120% of the Fair Market Rent.

MPHA strives to ensure that persons with disabilities have full access to MPHA's programs and services. This responsibility begins with the first inquiry of an interested household and continues through every programmatic area of the HCV program.

#### 17.6 Physical Accessibility Modifications

Where practicable, MPHA's buildings will be physically accessible and usable by disabled persons. With each physical alteration, a cost base analysis may be needed. Cost base factors include but are not limited to the type of accommodations, cost, the size of MPHA's overall housing business, number of units, type of units, budget, expenses and ability to recoup the cost.

Alterations in new construction shall comply with federal and state law and regulations. If a physical accommodation is unreasonable, MPHA may provide for program access at a different accessible location.

#### 17.7 Housing Choice Voucher Program Accessibility

MPHA will make reasonable accommodations for qualified persons with disabilities to have access and use its programs. Except when necessary to maintain the fundamental nature of the program, MPHA will not use the eligibility criteria, which adversely impacts upon disabled persons.

#### 17.8 Fair Housing Act & Equal Opportunity

##### Nondiscrimination

MPHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- 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

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.

MPHA will comply with the following state and local Nondiscrimination Laws:

- Minneapolis Civil Rights Ordinance
- Minnesota Human Rights Act.

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

MPHA will not use any of these factors described above 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.

#### Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by MPHA or an owner, the family should advise MPHA. MPHA will make reasonable efforts to determine whether the applicant's or participant's assertions have merit and take corrective action. In addition, MPHA will provide the applicant or participant with information about how to file a discrimination complaint.

Upon receipt of a housing discrimination complaint, MPHA will:

- 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

MPHA will keep a record of all complaints based on actual or perceived sexual orientation, gender identity, or marital status, investigations, notices, and corrective actions. For policies regarding record keeping, see the section on RECORD KEEPING.

Within 10 business days of receiving the complaint, MPHA will provide a written notice to those alleged to have violated the rule. MPHA 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).

MPHA will conduct an investigation into all allegations of discrimination based on actual or perceived sexual orientation, gender identity, or marital status against the MPHA or an Owner to determine if a violation occurred and implement a corrective action(s) to remedy the discrimination.

Within 10 business days following the conclusion of the investigation, MPHA 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.

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

MPHA takes steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, MPHA provides information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods.

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.

# H - LANDLORD SERVICES

## 18.0 OWNER RESPONSIBILITIES

### 18.1 Owner/Landlord Responsibilities

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing information required under the HAP contract to MPHA;
- Collecting from the family any security deposit, the tenant's contribution to rent (the portion of rent to the owner not covered by the housing assistance payment from MPHA), and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services (unless paid by the family under the lease);
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person; and
- Comply with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening and terminating HCV tenants.

## 19.0 RELATIONSHIP MANAGEMENT

### 19.1 Landlord Incentive Fee program

### 19.2 Attracting Landlords

### 19.3 Landlord Briefing

## 20.0 OWNER/LANDLORD ELIGIBILITY

Although MPHA does not maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to MPHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit. MPHA will maintain a list of owners who have indicated their willingness to lease a unit to an eligible HCV family and make that information available to HCV holders.

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify MPHA. MPHA will maintain a list any such owners and make that list available to HCV families.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. MPHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to MPHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance

it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling

lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A).

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions. The owner must be qualified to participate in the program. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit.

Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the HUD Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. MPHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements.

MPHA will determine that the cost of the unit is reasonable. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. MPHA uses GoSection8 for determining rent reasonableness.

At initial lease-up of a unit, MPHA will determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income for any non-MTW units, and 50% of monthly adjusted income for MTW families.

MPHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641).

### **Owner Qualifications**

MPHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where MPHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program.

### **Legal Ownership of Unit**

MPHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes). Ownership will be verified through the Hennepin County Property Information website <https://www.hennepin.us/residents/property/property-information-search>

### **Ineligibility Criteria**

MPHA will not approve the assisted tenancy if it has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct MPHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

### **Owner Actions That May Result in Disapproval of a Tenancy Request or Program Participation**

MPHA may refuse to approve a request for tenancy if the owner has committed any number of disqualifying actions.

If MPHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract

for those units.

MPHA may refuse to approve a request for tenancy if any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant- based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of MPHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner has not paid state or local real estate taxes, fines, or assessment;
- The owner does not have a current rental license for the property;
- The owner's property is in a foreclosure status; or
- The owner is absent and does have a local management presence.

In considering whether to disapprove owners for any of the discretionary reasons listed above, MPHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, MPHA may, on a case-by-case basis, choose to approve an owner.

#### **Non-Discrimination**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with MPHA.

The owner must cooperate with MPHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with MPHA.

#### **20.2 Change of Owner or Landlord**

Insert Procedures

#### **20.3 Leasing to Relatives/Conflict of Interest**

##### **Leasing to Relatives**

MPHA will not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

MPHA may make an exception as a reasonable accommodation for a family member with a disability.

#### Conflict of Interest

MPHA will not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of MPHA (except a participant commissioner);
- Any employee of MPHA, or any contractor, subcontractor or agent of MPHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
- Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. MPHA will submit a waiver request to the appropriate HUD Field Office for determination. MPHA will follow HUD guidelines for waiver requests.

Where MPHA has requested a conflict of interest waiver, MPHA may not execute the HAP contract until HUD has made a decision on the waiver request.

Any waiver request submitted by MPHA will include:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, MPHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by MPHA or assistance under the HCV program for an eligible MPHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program; and
- If the case involves an investment on the part of a member, officer, or employee of MPHA, description of the nature of the investment, including disclosure/divestiture plans.

In considering whether to request a conflict of interest waiver from HUD, MPHA will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

# I - UNIT ELIGIBILITY

## 21.0 REQUEST FOR TENANCY APPROVAL (RTA)

### 21.1 RTA Receipt and Initial Review

#### Family Share and Affordability Non-Rent Reform Policy

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds MPHA's applicable payment standard, MPHA will 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.

#### Rent Reform Policy

Under MTW, MPHA has removed the 40% affordability cap.

MTW households will be responsible for all rent and tenant-paid utility costs not covered by the MPHA's flat subsidy. MPHA will not approve a Request For Tenancy Approval (RFTA) if a participant's rent portion exceeds 50% of their monthly gross income, without Supervisory review and approval. MPHA retains the right to approve or deny any Request for Tenancy Approval.

### 21.2 Request for Tenancy Submission & Approval

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request MPHA approve the assisted tenancy in the selected unit.

The owner and the family must submit a Completed Request for Tenancy Approval (RTA).

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for MPHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless MPHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

- For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.
- The RTA must be submitted no later than the expiration date stated on the voucher.
- The RTA must be signed by both the family and the owner.
- The family may not submit, and MPHA will not process, more than one (1) RTA at a time.
- When the family or owner submits the RTA MPHA will review the RTA for completeness.
- If the RTA is incomplete (including lack of signature by family, owner, or both) MPHA will not accept the RTA.
- Missing information and/or missing documents will only be accepted as hard copies, email, or by fax, and will not be accepted over the phone.
- When the family submits the lease, MPHA will also review the terms of the RTA for consistency with the terms of the lease.
- If the terms of the RTA are not consistent with the terms of the lease, the PHA will not accept the RTA.



- Corrections to the terms of the RTA and/or the lease will only be accepted as hard copies, email, or by fax.
- MPHA will not accept corrections by phone.
- Because of the time sensitive nature of the tenancy approval process, MPHA will attempt to communicate with the owner and family by phone, fax, or email. MPHA will use mail when the parties cannot be reached by phone, fax, or email.

### Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in MPHA's jurisdiction.

### Ineligible Units

MPHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

### Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, MPHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### Duplicative Assistance

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by

the family, or a rent reduction because of a tax credit.

### Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family, if the unit is within the rent burden limits.

### Rent Reasonableness

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. MPHA will use data collected by third party vendor GoSection8.com, Go Section 8's software will also be used to determine rent reasonableness.

### Rent Burden

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the units equals the family share.

### MTW Policy— Rent Burden

Rent Reform households will be responsible for all rent and tenant-paid utility costs not covered by the MPHA's flat subsidy. The 40% family rent burden will not be considered by MPHA when approving tenancies; Rent Reform families will have a rent burden limit of 50% adjusted monthly income.

### Tenancy Approval

After receiving the family's Request for Tenancy Approval, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where a non-MTW family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

If the terms of the RTA are changed for any reason, including but not limited to negotiation with the PHA, the MPHA will negotiate changes on the RTA with date/time and name of person authorizing change and obtain a corrected copy of the lease, signed by the family and the owner.

Corrections to the proposed lease will only be accepted as hard copies, in-person, by mail, email or by fax. MPHA will not accept corrections over the phone.

If MPHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the

steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not HQS approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, the participant will need to negotiate with the owner to lower the proposed rent to meet affordability.

If a new, approvable rent is negotiated, the tenancy will be approved upon receipt of the Rent Reduction Agreement. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

The participant and landlord will be notified if the RTA was denied and the reason for the denial. The landlord will have the opportunity to adjust the rent for affordability/rent reasonableness, provide three comparable units to certify rent reasonableness, or obtain a rental license. If the RTA is denied and there is no response or remedy the participant must locate a different unit and their voucher clock resumes. The time between the RTA submittal and denial will be granted back to the participant's unit search time.

### 21.3 Lease and Tenancy Addendum

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; MPHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

#### Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

MPHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

#### Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant and all family members:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

#### Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit MPHA to approve a shorter initial lease term if certain conditions are met. MPHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to the participant [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

MPHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

#### **Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. MPHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

The PHA will allow the owner to collect any security deposit amount in accordance with state law. Therefore, no modifications to the HAP contract will be necessary.

#### **Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by MPHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

MPHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

#### **PHA Review of Lease**

MPHA will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing

and corrected lease information will only be accepted as hard copies, by scheduling an appointment or by fax or email. MPHA will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, MPHA will attempt to communicate with the owner and family by phone, fax, or email. MPHA will use mail when the parties can't be reached by phone, fax, or email.

MPHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

#### HAP Contract Execution [24 CFR 982.305]

The HAP contract is a written agreement between MPHA and the owner of the dwelling unit. Under the HAP contract, MPHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If MPHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

MPHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

MPHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

MPHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, MPHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and MPHA may not pay any housing assistance payment to the owner.

Owners who have not previously participated in the HCV program are encouraged to attend a meeting with the MPHA in which the terms of the Tenancy Addendum and the HAP contract will be explained.

The owner and the assisted family will execute the dwelling lease and the owner or participant must provide a copy to MPHA.

The owner and MPHA will execute the HAP contract. MPHA will not execute the HAP contract until the owner has submitted any and all documentation requested by MPHA. MPHA will ensure that the owner receives a copy of the executed HAP contract.

#### Changes in Lease or Rent [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give MPHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, MPHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to the participant, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in this chapter. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

#### 21.4 Inspection's Request

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. The inspection request will be made once MPHA has determined the requested unit is affordable for the participant and the proposed rent reasonable.

### 22.0 INSPECTION STANDARDS

#### 22.1 Unit Inspection

MPHA will inspect each unit in accordance with established policies to determine if the unit meets the Housing Quality Standards ("HQS"). MPHA will maintain a history of each inspection.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS.

MPHA will be working with the City of Minneapolis, Office of Regulatory Services, to develop 'enhanced' inspection standards that will combine many of the city's residential codes that affect safety with HQS. This is to further provide for the safety and security of families served by MPHA's HCV program.

Additionally, MPHA will begin allowing Project-based properties to complete their own move-in and annual inspections if they have an HQS certified inspector complete the inspections and report the outcomes to MPHA. An HCV Inspector will conduct periodic quality control inspections to ensure the inspections are being properly conducted. This will allow for expedited leasing for MPHA participants.

#### General HUD Requirements

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.

#### 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; and
- Smoke Detectors

#### Tenant Preference Items:

HUD requires MPHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, MPHA will ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

#### Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a 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.

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. See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to MPHA for review.

#### Additional Local Requirements

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

#### Thermal Environment

The PHA 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.

Heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

#### Clarifications of HUD Requirements

As permitted by HUD, the MPHA 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.

If walls are yellowed or badly stained they must be repainted and sealed.

#### Bedrooms

Ceiling height must be a minimum of 7 ft. high. Room dimensions must be 70 sf for one person and 90 sf for two persons. Must be a minimum of 7 ft. in any direction.

#### 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.

Owners must provide and install window coverings (i.e., shades, blinds, etc.) and screens as necessary for each window designed to open for insect control or safety of persons.

All windows designed to open must be operable and lock securely. Storm windows or 2 panels of glass are required on all windows.

In each room, there will be at least one exterior window that can be opened and that contains a screen and a storm.

All Egress windows must have escape ladders or stair-steps to facilitate a safe exit and must meet Minneapolis City Code dimensions.

#### 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 which lead directly to and from the assisted unit must have a turn-style deadbolt lock; double-keyed deadbolts are not permissible. The door must be sturdy and secure tightly and be free of other defects which would compromise the safety, security or integrity of the door. All trim and weather stripping must be intact.

All rooms considered to be a sleeping room must have a door that closes to allow for privacy. All bathrooms must have a door that closes to allow for privacy.

#### Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured 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. Carpet that is badly soiled must be cleaned and in sanitary condition, or it must be replaced.



## Stairs

Where there are four or more consecutive steps, a handrail must be present to insure safe and proper exit to and from areas within the interior or the exterior of the property.

## Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly. All sinks must have functioning stoppers.

## 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.

## Utility Meters

In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption, or comply with Minnesota State Metering Law.

## Electrical Wiring

In the interest of safety - MPHA requires all electric wiring (IE: Romex, loose solid or stranded wiring, 120-240 volt only, not including low voltage wiring) on the exterior (outward facing side) of any ceiling, wall, floor or exterior of home/garage to be properly covered with metal or plastic conduit or encased (sheetrock, plywood or other suitable wall covering material) to prevent physical damage to wiring. All stud cavities containing exposed electric Romex wiring, whether vertical or horizontal, must also be covered with either proper conduit or suitable wall covering throughout complete home and garage.

## Intercom or Electronic Entry Devices

If a multi-unit structure defined as any property having 4 or more units is constructed with an Intercom or Electronic Entry Device System, the system must be operable and serviceable through the main entry to the building.

## Inoperable Appliance

Must be discarded. If operable but not in use must be stored in a locked area. If discarding door must be removed.

## Overall Site Condition

Litter/ trash and evidence of general lack of yard maintenance is not permitted.

## Carbon Monoxide Alarms

Every single-family dwelling and every multifamily dwelling unit shall be provided with a minimum of one UL (Underwriter Laboratories) approved and fully operational Carbon Monoxide (CO) alarm installed within (10) feet of each room lawfully used for sleeping purposes. If bedrooms are located on separate floors additional CO" alarms would be necessary within 10 feet of these areas. If bedrooms are located in separate areas (on the same level), additional CO alarms would be necessary within 10 feet of these areas. In lieu of installing multiple CO alarms in the hallway, a separate CO alarm could be installed inside each sleeping room. It is important that these devices be installed in accordance with the manufacture's installations instructions and not be placed in "dead" air pockets such as corners of rooms, at the junction of walls and ceilings or within thirty-six inches of ventilation ducts.

## Life Threatening Conditions

HUD requires MPHA 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 MPHA notification.

The following are considered life threatening conditions:

- Any condition that jeopardizes the security of the unit;
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling;
- Natural or LP gas or fuel oil leaks;
  - 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 Hot Water Heater;
- Inoperable Furnace;
- Inoperable smoke detectors or CO Alarm;
- 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; or
  - 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

If an owner fails to correct life threatening conditions as required by MPHA, the housing assistance payment will be abated and the HAP Contract will be terminated.

If a family fails to correct a family caused life threatening condition as required by MPHA, MPHA may terminate the family's assistance.

The owner will be required to repair an inoperable smoke detector unless MPHA 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.

If Risk Assessor (i.e. Hennepin County or other certified Risk Assessor) determines that abating the lead-based paint will be unsafe for the family, the owner will be required to provide temporary alternative housing during the abatement of the lead-based paint.

#### Violation of HQS Space Standards

MPHA has adopted the code standards set forth by the City of Minneapolis which are relative to the size and dimensions of bedrooms.

If MPHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, MPHA will issue the family a new voucher, and the family and MPHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, MPHA will terminate the HAP contract in accordance with its terms.

#### Maximum Persons in a Unit

This table below provides general occupancy standard guidelines. For example, a 4-person family consisting of a head of household, her 5-year-old daughter, her six-year-old son and 3-year-old son would not necessarily be provided with a 4 BR voucher or a 2 BR voucher as referenced in the table below. When you factor in the policies on Determining Family voucher Size, this household would be eligible for a 3 BR voucher – one for the head of household, one for the daughter and one for the two sons.

Number of Bedrooms	Max. Persons/Unit
0 BR	2
1 BR	4
2 BR	6
3 BR	8
4 BR	10
5 BR	12

6 BR	14
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MPHA will follow HUD's maximum HQS space standards in determining exceptions to the maximum allowable persons in a unit.

#### **Owner and Family Responsibilities**

General Housekeeping throughout the interior/exterior of the property

#### **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; and
- 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.

MPHA may terminate assistance to a family because of an HQS breach caused by the family.

#### **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 lease violation the owner may take legal action to evict the family.

If the owner fails to maintain the dwelling unit in accordance with HQS, MPHA will take action to enforce the owner obligations, which may include abatement or reduction of HAP payments and termination of the HAP contract.

#### **Special Requirements for Children with Environmental Intervention Blood Lead Level**

When MPHA 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 elevated blood lead level, the MPHA will complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider.

The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from MPHA, 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 MPHA will take action in accordance with abatement policies in this Plan.

MPHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Appendix

#### **22.2 Inspections Scheduling Process**

The family must allow MPHA to inspect the unit at reasonable times with reasonable notice. 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 24 hours. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, MPHA will give as much notice as possible, given the nature of the emergency.

### 22.3 Types of Inspections

MPHA conducts the following types of inspections as needed.

- Initial Inspections
- Annual/Biennial Inspections
- Special Inspections
- Re-inspections
- Quality Control Inspections

During any inspection, MPHA may take pictures of or video tape the unit and its contents and record any HQS deficiencies or any matter related arising out of the Plan or the administration of the Section 8/HCV Program. Appropriate action will be taken as a result of violations that are observed.

### 22.4 Initial Inspection Process

MPHA 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 before the effective date of the HAP Contract

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

MPHA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

#### 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 working 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 working days. The 15-working-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

To the extent practicable, MPHA 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). If at the initial move-in inspection the unit fails HQS and the Inspector determines that the repairs would take longer than 30 days to complete or that a risk assessment is required, the RTA may be withdrawn by MPHA.

### 22.5 Annual Inspections Process

#### Annual/Biennial Inspections

MPHA is required to inspect each unit under lease at least biennially to confirm the unit continues to meet HQS. Biennial inspection frequency means that the unit must be inspected at least once in a 24-month period. Annual inspection means that the unit must be inspected at least once in a 12-month period. When the term regular inspection is used it refers to annual and biennial inspections. MPHA may still allow the owner to retain the biennial inspection frequency because the violation was as a result of a non-compliant tenant moving out.

MPHA reserves the right to change any HQS unit inspection frequency based upon management discretion. MPHA will not rely on alternative inspection standards.

## 22.6 Special Inspection Process

A special inspection may be requested by the owner, the family, a third party or MPHA and may be related to any matter arising out of this Plan or the administration of the Section 8/HCV Program. Such matters include but are not limited to VAWA, Reasonable Accommodation requests or denials, family composition, use of the unit and other matters. During a reasonable accommodation special inspection, measurements may be taken of room dimensions, size of medical equipment or unit lay-out.

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, MPHA will inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, MPHA will inspect the unit within 15 days of notification.

During a special inspection, MPHA 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 regular inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, MPHA may elect to conduct a full regular inspection.

## 22.7 Inspection Results & Re-Inspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause.

MPHA will conduct a reinspection following the end of the corrective period, or any MPHA approved extension. MPHA will conduct a re-inspection within 15-days of the notification from the owner that the HQS violation has been corrected.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, MPHA 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 MPHA policies. If MPHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, MPHA 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 the termination policies in this Plan.

It is the owner's responsibility to contact the Inspector to request re-inspection of a property on which the HAP is abated.

## 22.8 Quality Control Inspections

An MPHA supervisor or other qualified individual will inspect a sample of units to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS, that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample will include 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.

## 22.9 Inspection Attendance

When a family occupies the unit, at the time of the inspection (outside of initial inspection), an adult family member must be present for the inspection

At initial inspection of a unit, MPHA will inspect the unit, in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required. If the owner or his or her representative is not present for the initial Move-In Inspection or if the unit is being occupied during time of scheduled inspection by any

person other than the assisted family the Section 8 Inspection will not be conducted.

If entry is not permitted to the unit for the first scheduled regular inspection each year, the participant will receive a final notice. If no entry to the unit is permitted during the second (2nd) inspection the family will be required to attend a Non-Disclosure Appointment. If the family fails to attend the Non-Disclosure appointment or fails to correct the family caused damages or housekeeping violation or fails to allow entry for inspection, MPHA will consider the family to have violated its obligation to make the unit available or in compliance with HQS and will take action to terminate the voucher. The notice of termination will provide the family the right to an informal hearing as referenced in Chapter 16.

#### **22.10 Inspection Costs**

MPHA may not charge the family for unit inspections or reinspection. In the case of inspections of MPHA-owned units, MPHA may compensate the independent agency from ongoing administrative fee for inspections performed. MPHA and the independent agency may not charge the family any fee or charge for the inspection.

MPHA will not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. MPHA may charge a reasonable fee to owners for reinspection in two situations:

- When the owner notifies MPHA that a repair has been made but the deficiency has not been corrected, and
- When the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to MPHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

#### **22.11 Project Based Rental Assistance (PBRA) Process**

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by MPHA for good cause. MPHA will re-inspect the unit within 15 business days of the date the owner notifies MPHA that the required corrections have been made. If a unit fails the initial inspection for 3 or less minor non-life-threatening conditions, MPHA has the discretion to define the HQS pass date, as long as the corrections are made within a 30- day period. MPHA has the discretion to approve the start date of the rental subsidy to be effective with the pass date of the HQS inspection or re-inspection.

During the Initial Move-In Inspection if more than four HQS Violations are identified the unit is to be considered "not ready" and the Inspection process discontinued until such a time as the owner has walked through the property with the "Commonly Failed Items List" and corrected all deficiencies to the best of his or her ability.

If the time period for correcting the deficiencies, 21-30 days (or any MPHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, MPHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner. If requested by the owner, the time frame for correcting the deficiencies may be extended by MPHA for good cause.

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.

A unit is considered not available for inspection if anyone other than those listed on the RTA are occupying the unit.

## Utilities

At initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. If utility service is not available for testing at the time of the initial inspection, MPHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. MPHA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by MPHA.

## Appliances

If the family is responsible for supplying the stove and/or refrigerator, MPHA 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. MPHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

### 22.12 Notification of Corrective Actions

When failures that are not life threatening are identified, MPHA will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction. The inspection report is also available in the Owner Portal.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and/or non-life-threatening conditions are not corrected within the specified time frame (or any MPHA-approved extension), the owner's HAP will be abated in accordance MPHA policy

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 MPHA-approved extension, if applicable) the family's assistance will be terminated in accordance with MPHA policy.

## Extensions

For conditions that are life-threatening, MPHA cannot grant an extension to the 24-hour corrective action period. Extensions will be granted in cases where MPHA 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; or
- 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 90 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.

### 22.13 Enforcing Owner Compliance

If the owner fails to maintain the dwelling unit in accordance with HQS, MPHA will take prompt and vigorous action to enforce the owner obligations.

## HAP Abatement

MPHA will make all HAP abatements effective the first day following the expiration of the specified correction period (including any extension).



MPHA will inspect abated units within 15 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

Proof of repair or documentation may be received by other means such as but not limited to; a fax or email sent containing a receipt or contract/invoice from a hired contractor, or pictures etc. The acceptance of "corrective action documentation" is at the sole discretion of MPHA. Generally, the inspection approval is based upon either the date the documentation is received by inspections or the date of correction noted on the approved document. This is also at the sole discretion of MPHA.

If an owner fails to correct HQS deficiencies by the time specified by MPHA, MPHA will abate housing assistance payments effective the date of the failed re-inspection. [MPHA may abate for a minimum period of sixty (60) days and up to ninety (90) days. 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.

MPHA may determine that a re-inspection of the property does not need to be conducted if approved verification of the HQS violation corrective action is received.

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

Reasonable notice of HAP contract termination by MPHA is 30 days calendar days.

The maximum length of time that HAP may be abated is 90 days, though exceptions will be granted if necessary to prevent displacement of the family. If the owner completes corrections and notifies MPHA before the termination date of the HAP contract, MPHA 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.

If the HAP contract goes to termination the HQS specialist will notify the technician of the participant, the effective date of the contract termination, and reason for termination. Upon receipt of the notification the technician will complete the following steps:

- Create and mail termination of HAP letter to the property owner,
- Contact participant to notify them they will need to vacate the unit,
- Schedule the participant family for a briefing and voucher issuance,
- Move the participant family out of the unit for the date of the HAP termination.

If the family stays in the unit past the term date, they will be unassisted by MPHA. If the unit is reinstated the family can choose to remain the unit if they want. The owner will not be paid the HAP that was recouped due to abatement.

#### 22.14 Enforcing Family Compliance

If the family fails to correct a violation within the period allowed by MPHA (and within any approved extensions), MPHA will require attendance at HQSE Class and the right to an Informal Hearing if program violations have been determined. If a family is found to be responsible for damages or has housekeeping deficiencies which do not meet HQS they will be required to attend a Non-Disclosure meeting. If the family fails to attend the Non-Disclosure or fails to correct the family caused damages or housekeeping violation MPHA will consider the family to have violated its obligation to make the unit available or in compliance with HQS and will take action to terminate the voucher. The notice of termination will.

Families are responsible for correcting any family-caused HQS violations MPHA will provide the family the right to an informal hearing. MPHA will not reimburse owners for the cost of damages or other unpaid amounts owed by the tenants under the lease. The owner must collect damage payments from the tenant. 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.

## J - CONTRACT RENT

### 23.0 CONTRACT RENT DETERMINATION

#### 23.1 Payment Standards

##### Rent Reform Policy

MTW households will be responsible for all rental and tenant-paid utility costs not covered by MPHA's flat subsidy, regardless of whether the unit is above or below the agency's payment standards. MTW households will not be subject to any non-MTW payment standard policies.

Revisions to the subsidy tables may be effective on an MPHA-determined effective date. The revised subsidy tables will be effective with the family's annual re-examination or at time of Unit Transfer.

##### Non-Rent Reform Policy

MPHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. For policies on the establishment and revision of the MPHA's payment standard schedule see Error! Reference source not found.

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)"

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 MPHA's subsidy standards or (2) the payment standard for the size of the dwelling unit rented by the family.

If MPHA 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, MPHA will use the appropriate payment standard for the exception area.

##### Non-MTW Policy

MPHA will pay a monthly housing assistance payment (HAP) for a family that is the lower of:

- The payment standard for the family minus the family's TTP or
- 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, MPHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

##### Changes in Payment Standards

When MPHA 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, MPHA is not required to reduce the payment standard amount used to calculate the subsidy for the families under HAP contract for as long as the HAP contract remains in effect.

##### 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.

### 23.2 Rent Reasonableness Certification

Rent reasonableness certifications will be completed to ensure rents charged by landlords to MPHA participants are reasonable and comparable with at least three other similar units within two miles of the participant's current unit.

MPHA will determine the reasonable rent for a unit receiving assistance:

- At initial occupancy of the assisted unit;
- When MPHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- Whenever the owner requests a rent adjustment;
- When directed by HUD; and/or
- At any time deemed appropriate by MPHA.

Technicians will complete the following steps to process a rent reasonableness certification:

- Enter the proposed contract rent and unit information into the Go Section 8 software and submit a search for three comparable units
  - Unit information such as unit type, utilities, and size must be entered accurately
- The comparable units must be within two square miles of the participant's unit and be at least 90% similar
  - Comparable units must be the same unit type and size as the participant's unit
- The adjusted rent amount for the comparable units must be equal to or less than the proposed rent for the participant's unit
- If Go Section 8 finds three comparable units the contract rent will be approved and the Technician will complete the appropriate processing steps
- If Go Section 8 cannot locate three comparable units, the contract rent will be denied and the landlord notified
- Landlord's will have the opportunity to respond to the rent reasonableness denial by submitting three comparable units of their own or submitting a new contract rent amount for approval. The comparable units submitted by the property owner must meet the same requirements in regards to unit type, size, utilities and distance.

### 23.3 Rent and Utility Changes (CRI)

#### Contract Rent Increases

Landlords can increase the contract rent amount for a participant's unit as long as the increase is not before the end of the first 12 months of initial lease up. The landlord must provide the tenant and MPHA at least 60-day notice in writing of the increase, and the new rent amount must be determined reasonable.

Landlords are responsible for submitting 60 day rent increase notices to MPHA via the MPHA owner email or fax. If landlords fail to provide 60 day notice the increase will be denied and they must select a different effective date for the increase.

If the owner provides the appropriate 60-day notice for a rent increase the technician will complete the following steps:

- Complete the rent reasonableness process using Go Section 8 software for the proposed rent amount
- If the rent is not reasonable, notify the landlord and give them the opportunity to provide three currently advertised comps for similar units within 2 miles of the participant's unit
- If the owner cannot provide comps and does not decrease the proposed rent amount the contract rent increase

will be denied

- If the rent is determined reasonable the ET will complete an interim using the income last reported by the participant and update the rent amount
- If the increase corresponds with the annual recertification the rent increase will be processed as an annual
- The ET will mail rent notification letters to notify the participant and landlord the change has been accepted and the new rent portions

A new HAP contract is not required for contract rent increases.

#### Utility Responsibility Change

Utility responsibility changes need to be reported to MPHA by the landlord and follow the same 60-day notice guideline. Utility responsibility changes may impact the rent portion paid by MPHA and the participant, which is why it is important to report these changes.

After a landlord submits a utility responsibility change the ET will follow these steps:

- Update the participant's unit file to reflect the new utility responsibility
- For MTW HCV families, if the heat utility changes an interim will be completed to update the rent portion to reflect the correct flat subsidy table
- If the change is for a utility other than heat, no further action is required by the ET
- For PBV, VASH, MOD, and FUP families an interim will need to be completed to update the Utility Allowance Payment (UAP) for the participant
- After the action is completed the ET will mail notification letters to the landlord and participant of the new rent portions

If a utility change is submitted by a property owner, the technician a new HAP Contract needs to be created and signed by the property owner and technician.

# K - HAP CONTRACT ADMINISTRATION

## 24.0 CONTRACT ADMINISTRATION

### 24.1 Overview

The HAP contract represents a written agreement between MPHA, and the owner of the dwelling unit occupied by an HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as MPHA's obligations. Under the HAP contract, MPHA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit. The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 program.

If MPHA has given approval for a family to begin tenancy in a unit, the owner and MPHA execute the HAP contract.

### 24.2 HAP Contract Contents

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures MPHA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices

- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by MPHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

### 24.3 Contract Activation

HAP contracts will be activated after a unit has been approved for tenancy by MPHA meeting all the requirements for unit eligibility. MPHA will generate a HAP contract with beginning and end terms concurrent with the lease signed by the tenant and owner. HAP contracts will not be activated until it is signed by both the owner and tenant's Technician. Housing assistance payments will be placed on hold until a HAP contract is returned to MPHA signed by the owner within 60 days of the activation date.

HAP contracts will remain active for a unit until the tenant currently residing in the unit decides to move to a new unit or the terms of the lease are changed by the owner. Changes to lease terms need to be approved by MPHA and agreed to by the tenant.

### 24.4 Breach of HAP Contract

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;
- If the owner has violated any obligation under any other HAP contract under Section 8;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug-related criminal activity;
- If the owner has committed any violent criminal activity.

If MPHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

MPHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. MPHA may also obtain additional relief by judicial order or action.

MPHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. MPHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

If relevant, MPHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, MPHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

### 24.5 Contract Termination

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any

lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

MPHA may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403];
- The unit does not meet HQS [24 CFR 982.404];
- The family breaks up [HUD Form 52641] ;
- The owner breaches the HAP contract [24 CFR 982.453(b)];
- The owner fails to maintain current rental license;
- The owner's rental unit is foreclosed;
- If a unit has gone through the foreclosure process and the new owner will occupy the unit as a primary residence and has provided the tenant with a notice to vacate at least 90 days before the effective date of such notice [Protecting Tenants from Foreclosure Act of 2009]

If MPHA terminates the HAP contract, MPHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which MPHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to MPHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].



# L - QUALITY CONTROL & PERFORMANCE INDICATORS

## 25.0 QUALITY CONTROL AND PERFORMANCE

### 25.1 Overview

MPHA will put in place mechanisms to control the quality of the work performed for its voucher programs, to evaluate current procedures and policies, and to monitor and evaluate employee performance individually and as a department.

#### 25.1 Quality Control Audit Process

The purpose of the quality control audit process is to assure that the MPHA voucher programs are submitting a high-level of accurate 50058 reports to the HUD data systems, correctly allocating public assistance subsidies, and to monitor employee performance.

The Quality and Technical Specialist (QT) will conduct monthly quality control reviews of files completed by all eligibility technicians each month. File reviews will be completed by the 15th of the month following the completion month of the files being reviewed, the audit findings will be dispersed to eligibility technicians no later than the 15th. Technicians will complete all rent and income calculation errors by the end of the month, to limit the amount of incorrect HAP payments during rent role. All other audit findings are expected to be completed by the end of the month as well, but if some audits are unable to be completed in this time frame the technician must notify QT of their progress.

For example, actions completed in February that are audited by March 15th, need to have corrections completed and reported to QT by the end of March.

A random selection of five lease up and annual reexaminations files for each non-probationary technician is reviewed and ten files are reviewed for each probationary new hire technician. The quality control audit's focus is on a number of specific indicators including Income Calculation, Rent Calculation, Voucher Size, Income Verification, Rent Reasonableness, Presence of a Signed HAP contract, and if the Annual/Move-In HQS inspection is completed.

Each of the five files audited is 20% of each technician's total QT score for the month. Files are scored by the number of errors discovered during the file audit. The indicators reviewed for each file are split into two categories; Critical and Clerical indicators.

Critical indicators;

- Rent Calculation,
- Income Calculation,
- Rent Reasonableness,
- Executed HAP Contract.

Clerical indicators;

- Income Verification,
- Zero Income Form,
- Completed application,
- Completed Case Note,
- Calculation Tape,
- Current Phone and Email.

A technician can receive a score of 20%, 15%, 10%, 5%, 0% for each file audit. Critical errors are worth 10% points, two will result in a 0% failed file. Every two clerical audits up to four errors are worth 5% points, more than four clerical errors will result in 0% failed file. There can also be a combination of one critical error and up to two clerical errors before a file results in 0% and the file fails. The total monthly score is the sum of the score from each file with a possible

total score of 100%.

Technicians failing two files will trigger quality control to pull an additional five files for review. If two or more of the additional files fail the Supervisor will be notified, and the next month this will trigger 50% of the files completed to be reviewed by the technician with the Supervisor or HCV Specialist. Technicians failing three or more files will trigger an additional pull of five files by quality control, if one or more files fail 50% of the files the following month will be reviewed with the Supervisor or HCV Specialist.

Technicians are expected to achieve and maintain an average quality control accuracy score of 90% which will be calculated monthly based on the average of monthly quality control audit scores. Quality control audits will be used as a key performance indicator to evaluate staff performance and improvement.

## 25.2 Clerical Audit Process

The purpose of the clerical audit process is to ensure the mandatory documentation for participant families is completed and filed accurately, and to ensure the data entered into participant files is accurate and complete. Unlike quality control audits, clerical audits are peer reviewed audits that focus on the administrative quality of data entry and record maintenance.

Quality control manages this process by randomly selecting ten files that have been completed in the previous month – including Annuals, Lease-Ups, and Interims – and then provides these files to a random technician with an auditing checklist. The technician then peer reviews the selected files to ensure all items on the clerical check list are correct in the file.

The checklist that the technicians follow contains five general areas for review: mandatory documents, application documents, data entry, HAP/PBV signed notice, and an executed lease.

Technicians submit the ten completed clerical audits to quality control to be reviewed by the quality specialists for accuracy and completeness. Clerical audits that are not complete or accurate are sent back to the technician to be reviewed again. Each clerical audit file is worth 10%, two or more errors will fail the file resulting in a score of 0%. The total monthly score is the sum of passed files with a possible total of 100%.

Technicians are expected to achieve and maintain an average clerical audit accuracy score of 90% which will be calculated monthly based on the average of monthly clerical audit scores. Clerical audits will be used as a key performance indicator to evaluate staff performance and improvement.

## 25.3 HCV Staff Key Performance Indicators

The HCV department will establish key performance indicators to evaluate the production and efficiency of HCV staff. The indicators will measure on a monthly basis, the completion time of documentation processing, paperwork, and the accuracy of core tasks completed by staff. The performance indicators will be represented as a percentage and the performance targets will be established by HCV management and subject to change.

Core tasks that will be evaluated:

- Accuracy of income and rent calculations
- Completion of processing deadlines
- Customer service
- Accuracy of data entry
- File maintenance

## INSERT APPENDIX

1. Termination of HAP Contract Letter
2. RTA Denial Letter
3. RTA acceptance letter
4. Audit Forms
5. Rent burden worksheet
6. RR Table
7. Utility Table
8. Denial/Approval of new member
9. Income calculation examples
10. Rent calculation examples
11. List of schools for SHSS
12. VAWA forms
13. Reasonable accommodation forms
14. Fair Housing Act
15. HAP contract
16. List of Offenses for Denying Assistance
17. Citizenship Documentation Table
18. Program deduction schedule by program
19. HQS Overview and List of Inspection Items