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BOSTON HOUSING AUTHORITY

Leased Housing Division Administrative Plan for Section 8 Programs

William McGonagle
Administrator

As Amended, April 1, 2017,



Deleted: 6

Summary of Proposed changes for the Boston Housing Authority's Housing Choice Voucher Administrative Plan Effective April 1, 2017

Added footnote to Super Priority - if the BHA withdraws the Super Priority status the applicant will be removed from all Section 8 waiting lists:

3.3.5 Priority Categories

(b) **Super Priority.** The BHA will admit an Applicant to the Section 8 program before all other Applicants on the waiting list if:

(1) The Applicant resides in BHA Public Housing AND **(added footnote)**

⁸ *If the Leased Housing Department is advised by the Public Housing Department that it is withdrawing Super Priority status approval the applicant will be removed from all Section 8 waiting lists for which he/she has Super Priority status only. The applicant will retain any other priority status for which he/she may have applied.*

(2) The Applicant is a Participant in the BHA's Section 8 Moderate Rehabilitation Program, or the Project Based Voucher Program AND **(added footnote)**

⁹ *If the Leased Housing Department withdraws Super Priority status approval the applicant will be removed from all Section 8 waiting lists for which he/she has Super Priority status only. The applicant will retain any other priority status for which he/she may have applied.*

Added two Priority categories under Boston's ICHH programs to assist formerly chronically homeless individuals who are currently in transitional housing programs with supportive services.

(d) **City of Boston Interagency Council on Housing and Homelessness (ICHH) Programs Priority:**

(3) *Moving On for the City of Boston*

The Moving on Program is a program that will assist tenants (formerly chronically homeless) who currently occupy transitional housing that has supportive services, and are no longer need of those services, transition to independent housing. The BHA in partnership with the City of Boston COC will provide no less than 50 housing subsidies to individuals identified by the City of Boston COC who have graduated from program services. The moving on program will aid in making units available for those individuals who are currently chronically homeless and in need of supportive housing services attached to those subsidies. Such an individual shall be eligible if:

a. *The person has been a tenant in such a program for at least twelve (12) months; and,*

- b. *The person no longer requires the program's services or has completed the program's services (as determined by the program service provided); and,*
- c. *As a result must relocate from such housing.*

*(4) Housing Chronically Homeless Elders (age 62 or older)
In Partnership with the City of Boston, this program will house Chronically Homeless Elders identified by the Boston COC and paired with supportive services in project based units where there is an Elderly preference identified.*

Added language to the Homeless Priority definition and verification requirements:

(9) Homelessness:

- *An applicant or a member of his or her household is suffering from a severe condition or a disability which precludes this person from residing in a public or private shelter.*

(i) For purposes of this section, the HA will consider a person's condition as severe when medical treatment cannot be provided in a shelter environment due to the high risk of endangering the health of the individual or exacerbating the condition as verified by a medical provider.

Note: *Persons living with tenants in private or subsidized housing DO NOT qualify as homeless, except for those applicants described in category above.*

- (iii) Written verification from a medical provider that the individual is unable to live in a public or private shelter, or any other place unfit for human habitation due to the applicant's severe medical condition or disability.*

Added Income of Financial Assistance for Higher Education in accordance with PIH notice 2016- 5

5.5.3 Determining and Verifying Family Income

(g) Income from financial assistance for higher education.

(1) Income from financial assistance for higher education includes any amounts received in excess of tuition, fees and charges as defined by the Department of Education.

(h) Verification of childcare expenses or care of Disabled Family Member deductions.

The BHA does not consider Child Care Expenses to be reasonable if the expense exceeds 50% of the gross income derived from the job enabled by the child care *with the following exceptions:*

- (a) *The employed family member is on a leave of absence from his/her job with an anticipated return; the family member is furthering his/her education; or, the family member is actively seeking employment*

Verification required:

- (2) *Third party verification of exception circumstances will be required: A letter from employer verifying leave of absence and anticipated return date; letter from educational institution verifying student status;*

Changed Earned Income Disregard (EID) lifetime limitation in accordance with PIH notice 2016- 5 (from 48 months to 24 months)

- (l) **Disallowance of an Increase in Annual Income for Participant Families with Disabled Members (Earned Income Disregard or EID)**

The earned income disallowance is limited to a lifetime *24-month period* for each Disabled Family member; that is, the disallowance applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion. If the period of increased income does not last for *12 consecutive months, the disallowance period continues for the remainder of the 24-month period.*

No earned income disallowance will be applied after the *24-month period* following the initial date the exclusion was applied.

Added new section for income exclusions (non-exhaustive)

- (m) *Exclusions from Income include but are not limited to the following (for a complete list refer to 24 C.F.R. 5.609(c))*
- (1) *Annual income does not include the following:
Income from employment of children (including foster children) under the age of 18 years.*
- (2) *Payments received for the care of foster of children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).*

- (3) *Lump sum additions to family assets, such as inheritances, insurance payments, (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses, except as provided 5.5.3(b).*
- (4) *Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.*
- (5) *Income of a live in aide as defined in Section 5.4.2 (g)*
- (6) *Education fees- financial assistance that is equal to tuition and any mandatory fees or charges in addition to tuition*
- (7) *The special pay to a family member serving in the armed forces who is exposed to hostile fire.*
- (8) *Amounts received under training programs funded by HUD.*
- (9) *Temporary, nonrecurring or sporadic income (including gifts).*
- (10) *Earnings in excess of \$480 for each full time student 18 years of older excluding the head of household and spouse.*
- (11) *Adoption assistance payments in excess of \$480 per adopted child.*
- (12) *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.*

A number of changes in the section regarding Hearing Procedures, including late requests, scheduling and compelling circumstances

6.2.2 Hearing Procedures

(a) Time to Request an Informal Review

The time to request an informal review shall be twenty (20) days from the date of notice of withdrawal, denial of assistance to the Family, denial of Priority and/or Preference, denial of a place on the appropriate waiting list, or denial of issuance of a Voucher, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of denial of assistance for any Family member. *The BHA will grant a request for a hearing when an Applicant submits a late request, together with evidence of compelling circumstances that prevented the Applicant from requesting a hearing within the twenty (20) days. Late requests will*

be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period. ,

(b) Scheduling the Informal Review

When the BHA receives the Applicant's written request the Department of Grievances and Appeals ("DGA") will schedule an informal review. The DGA will notify the Applicant in writing of the date, time and place of review. The BHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review his/her file, request a Reasonable Accommodation or interpreter and right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for applicant and the BHA. If an Applicant requests an Reasonable Accommodation that pertains to the how the hearing itself will be conducted the DGA Administrator will decide the accommodation request. If an Applicant requests a Reasonable Accommodation that pertains to the underlying decision, the request will be forwarded back to the Department for review. All requests will be processed in accordance with the BHA Reasonable Accommodation policy.

- c) *Default and Rescheduling. The DGA will issue a Default if the Applicant does not appear in the DGA within 15 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing maybe rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent requests must be supported by evidence of compelling circumstances that would prevent the applicant from attending. Reschedule requests submitted after the hearing date must be submitted within 30 days of the hearing date and must be supported by evidence of compelling circumstances that prevented the applicant from attending and, if applicable, prevented the Applicant from submitting a request to reschedule prior to the hearing date. The Applicant will be withdrawn from the waiting list if the Applicant does not attend the informal review and did not attempt to reschedule.*
- d) *Compelling Circumstances – when analyzing whether or not a applicant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the written facts or circumstances submitted by the applicant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the applicant has attempted to remedy the request/default; (2) the nature of the applicant's explanation; (3) whether or not the applicant could have prevented the untimeliness; (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. **Please Note the review will be based solely on the documents submitted,***

no hearing will be scheduled to determine compelling circumstances.

Failure to receive the adverse notice or hearing notice will not be considered a compelling circumstance if the applicant did not receive the notice because of his/her failure to give the BHA the correct and most current address.

Changed time frame for when an applicant can reapply after determination of Ineligibility

6.2.7 Confirmation of the BHA's Determination of Ineligibility

- (a) If the decision or an appeal ***upholds*** the determination of Ineligibility the Applicant may submit a new application for admission at a time when a waiting list is open *but no earlier than eighteen (18) months after the after the initial determination of ineligibility by Leased Housing.*

Added time frame for a rent approval to be valid

8.6 Rent Increases

8.6.1 General Procedure and Policy

... The BHA Department of Inspections will approve or deny all rent increase requests and notify the Leasing Officer, Owner, and the Participant of the decision. *Note: a rent approval issued by the Inspections Department shall be valid for 120 days.*

Added language regarding issuance of a Final Voucher

11.3.4 Issuance of a Voucher

(b) If a Participant vacates his/her unit and a new tenancy has not been approved by the BHA, he/she must contact the Housing Authority within 10 days of receiving notice in order to obtain a Final Voucher and retain voucher holder status. Failure to contact the Housing Authority within 10 days will result in the loss of rights to retain voucher holder status. No further notice will given and all rights to participate in the Housing Choice Voucher Program will end.

13.7.2 When an informal hearing is not required

- (i) *Failure to request a Final Voucher within 10 days of vacating a subsidized unit*

Added language to Hearing Procedures for Participants regarding requesting a hearing

13.7 Informal Hearings for Participant Families

13.7.3 Notice to the Family to Request an Informal Hearing

- (a) *In the cases described in sections 13.7.1(a), (b), (c), and (h) the BHA will notify the Family of the basis for the BHA determination. If requested by the family, the BHA will schedule a private conference in accordance with section 13.6.5 and section 8.6 in these situations. If a resolution cannot be reached at the Private Conference, the BHA will notify the Family in writing of its decision and advise the Family that they may request an informal hearing within twenty (20) days of that determination.*

13.7.5 Hearing Procedures

- (a) *Time to request a hearing. The Participant has twenty (20) days from the date of the proposed termination letter, except in Non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member. The BHA will grant a request for a hearing when a Participant submits a late request, together with evidence of compelling circumstances that prevented the Participant from requesting a hearing within twenty (20) days. Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period.*
- (k) *Default and Rescheduling. The DGA will issue a Default if the Participant does not appear in the DGA within 30 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing may be rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent reschedule requests must be supported by evidence of compelling circumstances that would prevent the participant attending. Reschedule requests submitted after the hearing date must be submitted within thirty (30) days of the hearing date and be BHA may terminate the subsidy, if the Participant does not attend the hearing and does not attempt to reschedule.*
- (l) *Compelling Circumstances Compelling Circumstances – when analyzing whether or not a participant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the written facts or circumstances submitted by the participant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the participant has attempted to remedy the request/default; (2) the nature of the participant's*

explanation; (3) whether or not the participant could have prevented the untimeliness; and, (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. **Please Note the review will be based solely on the documents submitted, no hearing will be scheduled to determine compelling circumstances.**

Failure to receive the proposed termination notice or hearing notice will not be considered a compelling circumstance if the Participant did not receive the notice because of his/her failure to provide the BHA the correct and most current address. If the proposed termination /hearing notice was sent via certified mail and first class mail and is returned to the BHA with a return receipt indicating that delivery was attempted by USPS but that the addressee failed to pick up the certified mail AND the first class mail was not returned as undeliverable, the notice will be considered received and the BHA may terminate the subsidy..

Changed the definition of Extremely Low Income in accordance with PIH Notice 2016-5

Extremely Low-Income Families - low income families whose incomes does not exceed the higher of thirty percent (30%) of the area median income or the federal poverty level.

The BHA gives preference to an Applicant on the waiting list if they qualify for one of the Preference categories listed below. See section 3.3.6. Preference points are cumulative and are added to the Applicant's Priority points (if any) to determine an Applicant's position on each BHA waiting list. An Applicant may qualify for more than one Preference at a time.

3.3.3 Verification of Priority or Preference Status

The BHA will provide to each potential Applicant a description of all Priorities and Preferences that may be available. BHA will verify the Priority during the application process as part of the determination of eligibility (See section 5.2).

3.3.4 Granting of Priorities and/or Preferences

It is BHA policy that a Priority and/or Preference, as well as date and time of the application, establish placement position on a waiting list. The BHA will grant Priority and/or Preference to Applicants who are Eligible, Qualified, and meet the definitions of the Priorities and/or Preferences (see section 3.3.5) at the time they are certified for Admission.⁷ Applicants can apply for Priority status at anytime the waiting list is open.

3.3.5 Priority Categories

- a) **Special Purpose Vouchers:** The BHA will admit an Applicant who qualifies for a particular category of Special Purpose Vouchers to the Section 8 program before all other Applicants on the waiting list if the BHA is not currently assisting the required number of special purpose vouchers families.
- (b) **Super Priority.** The BHA will admit an Applicant to the Section 8 program before all other Applicants on the waiting list if:
 - (1) The Applicant resides in BHA public housing⁸, AND;
 - (i) The Applicant Family is being temporarily displaced due to BHA rehabilitation and modernization programs; or

⁷ If the Applicant is denied priority status and requests an informal review, the hearing officer at the review will determine the priority status at the time of certification and not at the time of the hearing. The BHA will take into consideration the individual circumstances of each Applicant.

⁸ If the Leased Housing Department is advised by the Public Housing Department that it is withdrawing Super Priority status approval the applicant will be removed from all Section 8 the waiting lists for which he/she has Super Priority status only--The applicant will retain any other priority status for which he/she may have applied.

- (ii) The Applicant or a member of the Applicant Household is in imminent danger of life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency; or
 - (iii) The Applicant or a member of the Applicant Household is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion which places them in imminent danger and that cannot be expeditiously remedied in any other way; or
 - (iv) The Applicant or a member of the Applicant Household has been or is currently a victim of Domestic Violence, Dating Violence, Stalking, or Sexual Assault, and has a reasonable belief of risk of imminent harm if he or she remains in the current Unit and no other BHA public housing sites are an appropriate alternative, or
 - (v) The BHA cannot approve the Applicant's request for Reasonable Accommodation at any of the BHA's public housing sites because the request would be unreasonable, an undue financial burden, or a fundamental alteration of the program and the Applicant's Request for Reasonable Accommodation could be resolved by being assisted under the HCVP.
- (2) The Applicant is a Participant in the BHA's Section 8 Moderate Rehabilitation Program, or the Project Based Voucher Program⁹AND;
- (i) The Applicant or a member of the Applicant Household is in imminent danger of life threatening injuries due to providing testimony or information regarding criminal activity to a local law enforcement agency; or
 - (ii) ~~(ii)~~ The Applicant or a member of the Applicant Household is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal

⁹ If the Leased Housing Department withdraws Super Priority status approval the applicant will be removed from all Section 8 waiting lists for which he/she has Super Priority status only. The applicant will retain any other priority status for which he/she may have applied.

provide a copy of the respective ISP for each eligible SIF Program Participant to the BHA and it shall become an addendum to the HCVP Family Obligations executed by the SIF Program Participant.

(32) Leading the Way Home

The Leading the Way Home Program is a form of supported housing designed to permanently solve homelessness amongst a subset of Boston homeless families residing in family emergency shelters funded by the State of Massachusetts. Households fitting this profile will be offered the following supports: (1) 18 months of support services focused on stabilization and self-sufficiency, and (2) Section 8 rental assistance for those participating households that are willing to participate in stabilization and economic self-sufficiency activities.

The BHA will provide no less than five-hundred (500) tenant based housing vouchers to qualified participants in this program. The State of Massachusetts will provide funding for the stabilization and supportive services for participants. The Massachusetts Department of Housing and Community Development (DHCD) or its subcontractor will identify and refer qualified Leading the Way Home applicants to the BHA.

(3) Moving On for the City of Boston

The Moving on Program is a program that will assist tenants (formerly chronically homeless) who currently occupy transitional housing that has supportive services, and are no longer need of those services, transition to independent housing. The BHA in partnership with the City of Boston COC will provide no less than 50 400 housing subsidies to individuals identified by the City of Boston COC to have graduated from program services. The moving on program will aid in making units available for those individuals who are currently chronically homeless and in need of supportive housing services attached to those subsidies. Such an individual shall be eligible if:

- a. The person has been a tenant in such a program for at least twelve (12) months; and,
- b. The person no longer requires the program's services or has completed the program's services (as determined by the program service provided); and,
- c. As a result must relocate from such housing.

(4) Housing Chronically Homeless Elders (age 62 or older)

In Partnership with the City of Boston, this program will house Chronically Homeless Elders identified by the Boston COC

and paired with supportive services in project based units where there is an Elderly preference identified.

(e) Priority 1

The BHA grants Priority 1 status to an Applicant whose verified circumstances, during the final eligibility interview (see section 5.3) and prior to execution of the Lease, fall within one of the following categories:

- (1) **Displacement due to a disaster**, such as flood or fire, that results in the un-inhabitability of an Applicant's Apartment or dwelling Unit not due to the fault of the Applicant and/or Household Member or beyond the Applicant's control;

Verification must include:

- (i) A copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters; **and**
- (ii) A copy of his/her Lease, or a statement from the property Owner, verifying that s/he is/was the tenant of record at the affected address; **and**
- (iii) Verification from the Fire department, the Inspectional Services Department, the Health Department or other appropriate agency that the dwelling Unit is now uninhabitable; **and**
- (iv) The cause of the disaster if known (**Note:** If the Applicant or a Household Member or guest was the cause of the disaster, approval for Priority status will be denied unless Mitigating Circumstances are established to the satisfaction of the BHA).

- (2) **Displacement Due to Domestic Violence/Dating Violence / Stalking/ Sexual Assault** which is defined as displacement from an address where the Applicant is/was the tenant of record due to continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Household Members.

exacerbating the condition as verified by a medical provider.

Note: Persons living with ~~current tenants~~ BHA Participants ~~or living with tenant~~tenants in private or subsidized housing DO NOT qualify as homeless, except for those applicants described in category C above.

Verification Requirements:

(i) Submission of a "Certificate of Homelessness" fully completed by an appropriate source and the Applicant's signed statement that he/she lacks a fixed, regular and adequate nighttime residence; or his/her primary nighttime residence is:

(A) A supervised public or private shelter designed to provide temporary housing accommodations (i.e., welfare hotels, congregate shelters and transitional housing); or

(B) A public or private place not designed or used as a regular sleeping place for human beings.

(ii) A third-party written verification from a public or private facility that provides shelter for homeless individuals, the local police department, or a social services agency, certifying the Applicant's homeless status in accordance with the definition in this policy; or,

(iii) Written verification from a medical provider that the individual is unable to live in a public or private shelter, or any other place unfit for human habitation due to the applicant's severe medical condition or disability.

(10) **Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals:** A participant in a transitional housing program for Elderly or Disabled Persons which includes a supportive services component (for example the Shelter Plus Care Program) shall be considered to be imminently in danger of homelessness. Such a program participant shall be eligible as a Priority One Applicant if:

(1) The person has been a tenant in such a program for not less than twelve (12) months; and

- (ii) Original passbook for passbook savings accounts;
- (iii) Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and
- (iv) Appraised valuations of any non-essential personal Assets such as jewelry, coin collections, antiques or classic cars.

(g) **Income from financial assistance for higher education.**

(1) Income from financial assistance for higher education includes any amounts received in excess of tuition, fees and charges as defined by the Department of Education.

(h) Verification of childcare expenses or care of Disabled Family

Member deductions. This deduction is available for any *reasonable* childcare expenses to enable a Family member to be employed or to further his or her education. Such expenses are amounts anticipated to be paid by the Family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a Family member to actively seek employment, be gainfully employed, or to further his or her education. The deduction will not be granted for any amount that is reimbursed.

The BHA does not consider Child Care Expenses to be reasonable if the expense exceeds 50% of the gross income derived from the job enabled by the child care with the following exceptions:

- (a) The employed family member is on a leave of absence from his/her job with an anticipated return; the family member is furthering his/her education; or, the family member is actively seeking employment.

Verification required:

- (1)(1) Statement from the provider of childcare or care of Disabled Person who is a Household Member of the amount of payment made on a periodic basis by the Applicant and proof of payment (e.g., cancelled check, money order receipt, IRS-1099 Form, etc.).
- (2) Third party verification of exception circumstances will be required: A letter from employer verifying leave of absence and anticipated return date; letter from educational institution verifying student status;

verification of unemployment benefits or self-certification that he/she is seeking employment.

(hi) **Verification of Medical Deductions.** This deduction is available to an Elderly or Disabled Family (i.e., in which the Head of Household or spouse is 62 years of age or older or is a Disabled Person). The BHA requires third party verification of the following un-reimbursed medical expenses for any Family member paid within the last twelve months:

- (1) Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;
- (2) Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc);
- (3) A printout of prescription costs from a pharmacy accompanied by proof of payment by a Family member;
- (4) Medical or dental bills for a Family member paid and proof of payment by a Family member.

(ij) **Verification of Disability Assistance Expenses**

This deduction is available for ***un-reimbursed*** attendant care and auxiliary apparatus expenses for each member of the Family who is a Disabled Person, to the extent necessary to enable any member of the Family (including but limited to the member who is a Disabled Person) 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.

(jk) **Verification of Permanent Residence at a Hospital**

The income of a Family member confined to a long-term health care facility, as well as the deductions for their care may be excluded from consideration.

(kl) **Disallowance of an Increase in Annual Income for Participant Families with Disabled Members (Earned Income Disregard or EID)**

If a Family's income increases as a result of employment of a Participant Family member who is a Disabled Person who has not

been employed for one or more years prior to employment, the BHA will not count the increase in income due to the employment for a 12 month period. During the second 12-month period after the new employment the BHA will only count 50% of the income.

The earned income disallowance is limited to a lifetime ~~48~~24-month period for each Disabled Family member; that is, the disallowance applies for a maximum of 12 months of full exclusion of incremental increase, and a maximum of 12 months of phase-in exclusion, ~~during the 48-month period starting on the date of the initial exclusion.~~

If the period of increased income does not last for 12 consecutive months, the disallowance period ~~may be resumed at any time~~continues for the remainder of the ~~within the 48~~24-month period, ~~and continued until the disallowance has been applied for a total of 12 months of each disallowance (the initial 12-month full exclusion and the second 12-month phase-in exclusion).~~

No earned income disallowance will be applied after the ~~48~~24-month period following the initial date the exclusion was applied.

(m) Exclusions from Income include but are not limited to the following (for a complete list refer to 24 C.F.R. 5.609(c))

(1) Annual income does not include the following:

Income from employment of children (including foster children) under the age of 18 years.

(2) Payments received for the care of foster of children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).

(3) Lump sum additions to family assets, such as inheritances, insurance payments, (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses, except as provided 5.5.3(b).

(4) Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.

(5) Income of a live in aide as defined in Section 5.4.2 (g)

(6) Education fees- financial assistance that is equal to tuition and any mandatory fees or charges in addition to tuition

(7) The special pay to a family member serving in the armed forces who is exposed to hostile fire .

(8) Amounts received under training programs funded by HUD.

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

(10) Earnings in excess of \$480 for each full time student 18 years of older excluding the head of household and spouse.

(11) Adoption assistance payments in excess of \$480 per adopted child.

(12) 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.

5.5.4 Zero Income

When an Adult Family member reports zero income, the BHA will require the Household to complete a budget or statement of financial responsibility. An investigation may also include ordering a credit report on the Family member. If the Family member owns a motor vehicle, a telephone, or has other evidence of some form of expenditures reflecting income, the Family member will be asked to explain the source of funds supporting such cash expenditures

In addition, the Family member will be required to sign releases allowing the BHA to obtain verification of no-income from sources such as Dept. of Transitional Assistance, Internal Revenue Service, Department of Revenue, Social Security Administration, Employment Security and Veterans Affairs.

(a) Frequency of Zero Income Recertification

The BHA may require a zero income Participant to recertify every month, but at a minimum will require quarterly Recertifications, until an Annual Income is determined.

5.6 Review of Citizenship and Eligible Immigration Status

Each Applicant/Participant's status as a U.S. Citizen, Eligible Non-Citizen or ineligible Non-Citizen must be verified except as indicated below. Determination of eligibility or partial eligibility for subsidized housing is affected by Citizen or Non-Citizen status. At least one Household Member must be a Citizen or Eligible Non-Citizen.

- (g) The hearing officer may consider mitigating circumstances or a reasonable accommodation presented at the hearing when determining whether or not to deny the assistance of an applicant.

6.2.2 Time to Request an Informal Review Hearing Procedures

(a) Time to Request an Informal Review

The time to request an informal review shall be twenty (20) days from the date of notice of withdrawal, denial of assistance to the Family, denial of Priority and/or Preference, denial of a place on the appropriate waiting list, or denial of issuance of a Voucher, except in Non-Citizen Rule cases where the time period shall be thirty (30) days from the date of the notice of denial of assistance for any Family member. The BHA will grant a request for a hearing when an Applicant submits a late request, but together with submits evidence of compelling circumstances that prevented the Applicant from requesting a hearing within the twenty (20) days. Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period., such as a health condition or Domestic Violence, Dating Violence, Stalking, or Sexual Assault, that prevented the Applicant from requesting a hearing within twenty (20) days.

6.2.3 (b) Scheduling the Informal Review

When the BHA receives the Applicant's written request the Department of Grievances and Appeals ("DGA") will schedule an informal review. The DGA will notify the Applicant in writing of the date, time and place of review. The BHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review his/her file, request a Reasonable Accommodation or interpreter and right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for applicant and the BHA. If an Applicant requests an Reasonable Accommodation that pertains to the how the hearing itself will be conducted the DGA Administrator will decide the accommodation request. If an Applicant requests a Reasonable Accommodation that pertains to the underlying decision, the request will be forwarded back to the Department for review. All requests will be processed in accordance with the BHA Reasonable Accommodation policy.

- ~~(a) — *Notice of Informal Review.* The DGA will notify the Applicant in writing of the date, time and place of the review. The BHA will send the notice to the Applicant's address of record. The notice shall also restate the Applicant's rights to present evidence and testify, review their file, request a Reasonable Accommodation or interpreter and right to be represented by an attorney or other individual at the hearing. The review shall be held at a convenient time and at an accessible location for the Applicant and the BHA.~~

If an Applicant requests a Reasonable Accommodation at the time of or after requesting an informal review, the hearing officer will make the decision regarding the accommodation.

(bc) Default and Rescheduling. The BHA-DGA will issue a Default if the Applicant does not appear in the DGA within 15 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing may be rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent requests must be supported by evidence of compelling circumstances that would prevent the applicant from attending. Reschedule requests submitted after the hearing date must be submitted within 30 days of the hearing date and must be supported by evidence of compelling circumstances that prevented the applicant from attending and, if applicable, prevented the Applicant from submitting a request to reschedule prior to the hearing date. ~~withdraw an~~ The Applicant will be withdrawn from the waiting list if the Applicant does not attend the informal review and did not attempt to reschedule twenty-four (24) hours prior to the review. The BHA will reschedule an informal review when a Participant submits evidence of compelling circumstances that prevented the Participant attending the hearing on the scheduled date.

~~(c) Untimely Request/Failure to attend the hearing. The BHA may withdraw the applicant from the waiting list, if the applicant does not attend the hearing and does not attempt to reschedule within twenty-four (24) hours prior to hearing, or appears for the hearing fifteen (15) or more minutes late. The BHA will reschedule hearing when an applicant submits evidence of compelling circumstances that prevented the applicant from attending the hearing on the scheduled date. If the applicant does not attend the hearing because the scheduling notice was not received due to the applicant's failure to give the BHA the correct and most current address the BHA may withdraw the applicant from the waiting list. If the scheduling notice was sent via first class mail and is NOT returned as undeliverable, the hearing notice will be considered received.~~

(d) Compelling Circumstances – when analyzing whether or not a applicant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the following: (1) the written facts or circumstances submitted by the applicant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the applicant has attempted to remedy the request/default; (2) the nature of the applicant's explanation; (3) whether or not the applicant could have prevented the

~~untimeliness; (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. which show that the applicant is not willful (a willful act is a deliberate, intentional or voluntary act) or culpable (culpable is to be responsible or liable) in making the late request, which would require more than mere action or inaction (for example the applicant's reason for not requesting a hearing timely should not due be to something the applicant did or failed to do); (2) the swiftness with which the applicant has attempted to remedy the default; (3) the existence of any meritorious defense to the underlying allegations; as well as, other equitable criteria such as: (a) whether the default resulted from a good faith mistake in following a rule or procedure; (b) the nature of the applicant's explanation; (c) the availability of other alternative sanctions; (d) whether not granting a late hearing or rescheduling a hearing would produce a harsh or unfair result.~~

Please Note the review will be based solely on the documents submitted, no hearing will be scheduled to determine compelling circumstances.

Failure to receive the adverse notice or hearing notice will not be considered a compelling circumstance if the applicant did not receive the notice because of his/her failure to give the BHA the correct and most current address.

6.2.43 Applicant Rights during the Informal Review

During the hearing, the BHA will put forth its evidence in support of a determination of Ineligibility, Withdrawal, or denial of Priority status or Preference(s). The Applicant will have an opportunity to present evidence and testimony rebutting the basis for the BHA's determination.

6.2.54 Due Process Requirements

The informal review will conform to the following due process requirements:

- (a) An employee of the BHA who did not participate in the original decision must conduct the review.
- (b) The hearing officer must base the decision solely on evidence presented at the hearing as well as any evidence previously received by the BHA. All evidence submitted at the hearing shall be considered de novo, and the matter shall not be remanded to

the Leased Housing Division or Occupancy Department for reconsideration due to submission of new evidence.

- (c) The Applicant and/or his/her representative has a right to inspect the file prior to the review, provided the Applicant provides BHA with written authorizations permitting the representative to have access to the contents of the Applicant's file and/or CORI.
- (d) Either the Applicant or the BHA may request after close of the review that the record remain open for a reasonable time for submission of new evidence. At the discretion of the hearing officer, the date may be only extended for good cause (such as the inability of the Applicant for reasons outside his/her control to provide a particular document by the requested date). Written notice of the record being held open, the cause for an extension if any, and the date the record will close will be given to the Applicant and kept in the BHA case file.

6.2.65 Informal Review Decisions

After the informal review, all Applicants will be sent an “**Informal Review Decision**” from the BHA hearing officer. This notice shall:

- (a) Provide a summary of the review;
- (b) Provide the decision of the hearing officer, together with findings and determination;
- (c) Provide an explanation of the regulations and/or other applicable provisions utilized in making the decision;

6.2.76 Reversal of BHA's Determination of Ineligibility

If the BHA **reverses** the determination to deny the Applicant assistance or Priority or Preference status, the application will return to its appropriate place on the waiting list(s) for all programs previously selected by the Applicant. The BHA will restore the status or position in accordance with the determination.

6.2.87 Confirmation of the BHA's Determination of Ineligibility

- (a) If the decision or an appeal **upholds** the determination of Ineligibility the Applicant may submit a new application for admission at a time when a waiting list is open but no earlier than eighteen (18) months after the after the initial determination of ineligibility by Leased Housing. ~~decision of Ineligibility is confirmed.~~ This period of time may permit the Applicant and/or Household Member to correct the behavior or situation that mentlted in rejection. A shorter period, as determined by the Authority, to be appropriate under the circumstances of the rejection, or any new Application, may be allowed.

exceed forty percent (40%) of the Family's Adjusted Monthly Income. See also 24 C.F.R. § 982.508.

8.5 Rent Exceptions

The BHA may approve an exception of up to 120% of the HUD FMR as a Reasonable Accommodation.

The BHA will request the HUD field office to approve an exception Payment Standard of more than 120% of the Fair Market Rent (FMR) if the exception is needed as a Reasonable Accommodation so that the HCVP is readily accessible to a Disabled Person in accordance with 24 C.F.R. parts 8 and 982. The BHA will apply to HUD for higher Payment Standards for neighborhoods when the BHA determines that exception Payment Standards are necessary to effectively administer its HCVP, and where such exception Payment Standard can assist Participants in leasing units outside areas of low income or Minority concentrations. Such rents must meet Reasonable Rent standards for comparable units. Any request for a Payment Standard exception over 120% of the HUD FMR must be made to the HUD central office located in Washington D.C.

8.6 Rent Increases

8.6.1 General Procedure and Policy

The Lease governs rent increases. To receive a rent increase, the Owner must send the request for a rent increase to the Participant and send copy of the request to the BHA sixty (60) days prior to the date of the requested increase. The rent may not be increased until after the initial one-year term of the Lease, or one-year has elapsed from the prior Lease amendment increasing the rent.

The Owner will send the initial rent increase requests to the Leasing Officer, who will advise the Owner of the effects of the increase. The Leasing Officer and the Owner will discuss any difference between the current Contract Rent and the Payment Standard for the particular Family size and Unit size and how the increase in rent may affect the Participant or the BHA's portion of the rent. If the Owner wishes to proceed with the request after discussing the increase with the Leasing Officer, the rent increase request will be filed in the Participant's folder and forwarded to the BHA Department of Inspections. The BHA Department of Inspections will approve or deny all rent increase requests and notify the Leasing Officer, Owner, and the Participant of the decision. Note: a rent approval issued by the Inspections Department shall be valid for 120 days.

If the BHA grants a rent increase the adjusted rent will be the lesser of:

- (a) The Reasonable Rent as most recently determined by the BHA, or
- (b) The amount requested by the Owner.

- (c) The move is required as a Reasonable Accommodation for a Disabled Person.
- (d) There is mutual consent between the Owner and the Participant.
- (e) The Family will not be prohibited from moving during the initial lease term so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the Unit in order to protect the health or safety of any individual member of the household who is or has been the victim of Domestic Violence, Dating Violence Stalking, or Sexual Assault and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling Unit (If the family or family member, or any family member is a victim of sexual assault that occurred on the premises during the 90 day period prior to the family's request to move, the family member is not required to believe that he or she was threatened with imminent harm from further violence if he or she remains in the dwelling unit..
- (f) Other exceptions which the BHA deems it necessary for the Family to relocate, including but not limited to, Domestic Violence, Dating Violence, Stalking, or Sexual Assault.

11.3.4 Issuance of a Voucher

- (a) The BHA will issue a Voucher anytime that a Participant requests one, regardless of whether or not they gave proper notice to their current landlord.
- (b) If a Participant vacates his/her unit and a new tenancy has not been approved by the BHA, he/she they must contact the Housing Authority within 10 days of receiving notice in order to obtain a Final Voucher and retain voucher holder status. Failure to contact the Housing Authority within 10 days will result in the loss of rights to retain voucher holder status. No further notice will be given and all rights to participate in the Housing Choice Voucher Program will end.

11.4 Change of Ownership

Upon notification in writing that Ownership of an assisted Unit has changed, the BHA will Stop Payment to the former Owner. In order for the BHA to begin payment to the new Owner, the former Owner must assign the HAP Contract and Lease to the new Owner, the new Owner must complete and sign an Owner/Agent Data Form and a W-9 form to verify tax reporting. The new Owner

If the Family fails to respond within twenty (20) days (thirty (30) days under HUD's non-citizen rule), the BHA will send the Participant a prompt notice of termination (by first class and certified mail). The BHA will also send a copy of the letter to the Owner. The BHA will grant a request for a hearing when a Participant submits a late request, together with evidence of *compelling circumstances* that prevented the Participant from requesting a hearing within twenty (20) days. Late request will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period.

~~Compelling Circumstances—when analyzing whether or not a participant's reasons for requesting a late hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider whether or not the participant has good cause for requesting a late hearing: (1) the written facts or circumstances submitted by the participant which show that the participant is not willful (a willful act is a deliberate, intentional or voluntary act) or culpable (culpable is to be responsible or liable) in making the late request, which would require more than mere action or inaction (for example the participant's reason for not requesting a hearing timely should not be due to something the participant did or failed to do); (2) the swiftness with which the participant has attempted to remedy the default; (3) the existence of any meritorious defense to the underlying allegations; as well as, other equitable criteria such as: (a) whether the default resulted from a good faith mistake in following a rule or procedure; (b) the nature of the participant's explanation for not requesting a timely hearing; (c) the availability of other alternative sanctions; (d) whether or not granting a late hearing would produce a harsh or unfair result. (Please note this decision will be made solely on documentation submitted, there is no hearing to determine whether not circumstances are compelling).~~

13.6.4 Reinstatement after Failure to Request a Hearing

If the failure to request a hearing within twenty (20) days is due to a documented disability, the BHA will reinstate the subsidy. See also BHA Reasonable Accommodation in Rental Assistance Policies and Procedures).

13.6.5 Private Conference

The BHA will use its discretion to schedule a private conference with a Family in an attempt to resolve the alleged violation(s). The BHA has no obligation to schedule a private conference before the informal hearing.

13.7 Informal Hearings for Participant Families

13.7.1 When an Informal Hearing must be offered to a Family

The BHA will offer a Family participating in the program an informal hearing for the following reasons:

- (a) A determination of the Family's annual or adjusted income, and the use of such income to compute the Housing Assistance Payment;
- (b) A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from BHA allowance schedule;
- (c) A determination of the Family Unit Size under the BHA Subsidy Standards;
- (d) A determination to terminate assistance for a Participant Family because of the Family's action or failure to act;
- (e) A determination to terminate assistance because the Family has been absent from the assisted Unit for longer than maximum period permitted under BHA policy and HUD rules. See section 13.5.2(h);
- (f) A determination to deny a Reasonable Accommodation;
- (g) A determination to deny assistance under the BHA's Residual Family policy.
- (h) A determination of ineligibility for continued assistance.

13.7.2 When an informal hearing is not required

The BHA is not required to provide a Participant Family an opportunity for an informal hearing for any of the following:

- (a) Discretionary administrative determinations by the BHA;
- (b) General policy issues or class grievances;
- (c) Establishment of the BHA schedule of Utility Allowances for families in the program;
- (d) A BHA decision not to approve an extension or suspension of a Voucher term;
- (e) A BHA determination not to approve a Unit or tenancy;
- (f) A BHA determination that an assisted Unit is not in compliance with HQS;
- (gg) A BHA determination that the Unit is not in accordance with HQS because of the Family size;

~~(h) Failure to request a Final vVoucher within 10 days of vacating a subsidized unit.~~

~~(i) A BHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract.~~

~~(h) A BHA determination to exercise or not to exercise any right or remedy against the Owner under a HAP Contract;~~

13.7.3 Notice to the Family to Request an Informal Hearing

(a) In the cases described in sections 13.7.1(a), (b), ~~and (c), and (h)~~ the BHA will notify the Family of the basis for the BHA determination. If requested by the family, the BHA will attempt to schedule a private conference in accordance with section 13.6.5 and section 8.6 in these situations. If a resolution cannot be reached at the Private Conference, the BHA will notify the Family in writing of its decision and advise that the Family that they may request an informal hearing within twenty (20) days of that determination.

(b) In the cases described in sections 13.7.1(d), (e), (f), ~~and (g),~~ the BHA will notify the Participant as explained in section 13.6.2.

13.7.4 Expeditious Hearing Process

The BHA will hold a hearing and issue a decision promptly. The Family will continue receive assistance while a decision is pending.

Pursuant to Sections 11.3, 11.3.1 and/or 11.3.2., the BHA may deny relocation with continued assistance where there are grounds for denial or termination of assistance.

13.7.5 Hearing Procedures

(a) Time to request a hearing. The Participant has twenty (20) days from the date of the proposed termination letter, except in Non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member. The Participant has twenty (20) days from the date of the proposed termination letter, except in Non-Citizen Rule cases where the time period shall be 30 days from the date of the notice of termination of assistance for any Family member. The BHA will grant a request for a hearing when a Participant submits a late request, together with evidence of compelling circumstances that prevented

the Participant from requesting a hearing within twenty (20) days. Late requests will be considered by the Administrator of Grievances and Appeals or his/her designee for thirty (30) days beyond the initial appeal period.

- (b) *Scheduling.* The BHA Department of Grievances and Appeals will schedule an informal hearing upon the receipt of a Participant's written request. The Participant will be given at least fourteen (14) days notice prior to the hearing date.
- (c) *Discovery.*
 - (1) The BHA will give the Family the opportunity to examine before the hearing, any documents in BHA's possession that are directly relevant to the hearing. The BHA will allow the Family to make copies of the relevant documents before the hearing at the Family's expense. The BHA will also allow a representative of the Family with an authorized release may have access to the file. If the BHA does not make the document available to the Family for examination upon request, then the BHA may not rely on the document at the hearing.
 - (2) The Family must allow the BHA to examine any Family documents that are directly relevant to the hearing before the hearing upon request. The Family must allow the BHA to examine the relevant documents at the BHA and the Family will allow the BHA to copy the relevant documents at the BHA's expense. If the Family does not make the document available to the BHA for examination upon request, then the Family may not rely on the document at the hearing.
 - (3) Either party may request an extension if required to rebut documents that were not provided to the opposing party prior to the hearing. Extensions will be granted at the discretion of the hearing officer.
- (d) *Amendments to Proposed Terminations.* If the BHA wishes to amend the grounds for the proposed termination, the BHA must notify the Participant of the amendment in writing, not less than fourteen (14) days prior to the hearing date. The amendment will be sent by regular and certified mail to the Participant's address of record. When sending out an amended proposed termination notice, the amended notice shall contain all violations. If the Participant has already requested a hearing due to the original proposed termination, a request for a hearing due to the amended notice is not required.

- (e) *Representation of Family.* At its own expense, the Family may be represented by a lawyer or other representative of the Family's choice.
- (f) *Evidence.* The BHA and the Family will each be given the opportunity to present evidence and question any witnesses. The Hearing Officer may consider evidence without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- (g) *Hearing File.* The hearing file shall consist of all documents submitted by either party in relation to the subject of termination. The BHA shall maintain audio recordings of all termination hearings.
- (h) *Hearing Officer.* Any designated BHA employee may conduct the informal hearing, other than a person who made the decision under review or his or her subordinate. The person who conducts the hearing may regulate the conduct of the hearing in accordance with the BHA's hearing procedures.
- (i) *Extensions.* The hearing officer may use discretion to grant an extension or continue the hearing to hear additional evidence or testimony.
- (j) *Issuance of Decision.* The hearing officer shall make a factual determination relating to the individual circumstances of the Participant based on a preponderance of the evidence presented at the hearing. The hearing officer shall take into consideration all relevant circumstances and any mitigating circumstances presented by the Participant. The hearing officer shall promptly render a written decision stating briefly the reasons for the decision. The hearing officer will send a copy of the decision to the Family by certified and first class regular mail. The hearing officer will also forward a copy of the decision to the Leased Housing Division and the Leasing Officer.
- (k) *Failure to attend the hearing Default and Rescheduling.* The DGA will issue a Default if the Participant does not appear in the DGA within 30 minutes of the scheduled time and did not submit a written request to reschedule prior to the hearing. A hearing may be rescheduled once for any reason without verification, provided that a written request is submitted on or before the date of the hearing. Second and subsequent reschedule requests must be supported by evidence of compelling circumstances that would prevent the applicant/participant attending. Reschedule requests submitted after the hearing date must be submitted within thirty (30) days of the hearing date and be- BHA may terminate the subsidy, if the Participant does not attend the hearing and does not attempt to reschedule_ within twenty-four (24) hours prior to

hearing, or appears for the hearing thirty (30) or more minutes late.

- (l) Compelling Circumstances ~~Compelling Circumstances~~ – when analyzing whether or not a participant's reasons for requesting a late hearing or failing to attend a hearing are compelling, the Grievances and Appeals Administrator or his/her designee will consider the written facts or circumstances submitted by the participant together with any documentary evidence in support of his/her request. The determination will be based on the following factors: (1) How quickly the participant has attempted to remedy the request/default; (2) the nature of the participant's explanation; (3) whether or not the participant could have prevented the untimeliness; and, (4) whether or not granting a late hearing/removing default would produce a harsh or unfair result. **Please Note the review will be based solely on the documents submitted, no hearing will be scheduled to determine compelling circumstances.**

~~he BHA will reschedule hearing when a Participant submits evidence of compelling circumstances that prevented the Participant attending the hearing on the scheduled date. Failure to receive the proposed termination notice or hearing notice will not be considered a compelling circumstance if the Participant did not receive the notice because of his/her failure to provide the BHA the correct and most current address. If the proposed termination/hearing notice was sent via certified mail and first class mail and is returned to the BHA with a return receipt indicating that delivery was attempted by USPS but that the addressee failed to pick up the certified mail AND the first class mail was not returned as undeliverable, the notice will be considered received. If the Participant does not attend the hearing because the scheduling notice was not received due to the Participant's failure to give the BHA the correct and most current address and the BHA may terminate the subsidy. If the scheduling notice was sent via certified mail and first class mail and is returned to the BHA with a return receipt indicating that delivery was attempted by USPS but that the addressee failed to pick up the certified mail AND the first class mail is NOT returned as undeliverable, the hearing notice will be considered received.~~

(m) Effect of Decision.

- (1) If the decision to terminate the Family's assistance is **upheld**, the Family will no longer receive assistance under the section 8 program. The Leased Housing Division will promptly send the Owner and the Participant a notice of termination. There is no additional opportunity within the BHA to appeal the hearing officer's decision.

an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. § 1182(d)(5))

- (5) A Non-Citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243 (h) of the Immigration and Nationality Act (8 U.S.C. § 1253(h));
- (6) A Non-Citizen lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act (8 U.S.C. § 1255a).

Emancipated Minor - Minor (under 18 years old) with a child who has otherwise established him/herself as a non-Dependent individual.

Extremely Low-Income Families - ~~These low income families whose incomes does not exceed the higher of thirty percent (30%) of the area median income for the area or the federal poverty level, as determined by HUD with adjustments for smaller and larger families.~~

Fair Housing Act - Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 et seq.).

Fair Market Rent (FMR) - The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. FMRs are published periodically in the Federal Register.

Family -

- (1) Two or more persons regularly living together, related by blood, marriage, adoption, guardianship or operation of law; or who are not so related, but share income and resources and intend to live together;
- (2) This definition includes single persons.²⁵
- (3) Other persons, including foster children, Live-In-Aides²⁶, and members temporarily absent (including children temporarily assigned to foster

²⁵ Single persons include: a single man; a single woman who is pregnant at the time of admission; a single person who has secured, or is in the process of securing, the custody of any individual(s) below the age of 18; an Elderly person; a Person with a Disability or Handicap; a Displaced Person; or a Single Person who is not Elderly, disabled, handicapped or displaced, each as defined in Chapter 11 of this Policy.

²⁶ Live-in-Aidess do not have rights of tenancy, nor can they be considered the remaining member of a resident household unless they are found to be a licensed Live-inAide and select one of the options in Chapter 5, section 5.4.2(g).

APPENDIX A

BOSTON HOUSING AUTHORITY
Moderate Rehabilitation Program Administrative Plan

William McGonagle
Administrator



Amended April 1, 2017,

Deleted: November, 2009
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Summary of Proposed changes for the Boston Housing Authority's Moderate Rehabilitation Administrative Plan Effective April 1, 2017

Added Language regarding RAD conversions in accordance with PIH Notice 2012-32 (HA), REV-2 6/15/15

CHAPTER 10: DETERMINATION OF ELIGIBILITY

10.1.1- Applicants who are screened via RAD conversion are not subject to any discretionary screening standards as set out in chapter 5 of the HCVP Administrative Plan.

Added CFR citation

11.1.4 Lease Limits for SRO Units

Leases for SRO Units will limit occupancy to one eligible individual. See 24 C.F.R. § 882.802 & 882.808(c).

CHAPTER 10: DETERMINATION OF ELIGIBILITY

Applicants will be referred to the BHA from the Owner's waiting list for eligibility determination in according with this chapter.

10.1 Threshold Eligibility Requirements

See section 5.2 of the HCVP Administrative Plan and all of its subsections.

10.1.1- Applicants who are screened via RAD conversion are not subject to any discretionary screening standards as set out in chapter 5 of the HCVP Administrative Plan.

10.2 Eligibility Interview (Final Eligibility)

See section 5.3 of the HCVP Administrative Plan and all of its subsections.

10.3 Family Composition

See section 5.4 of the HCVP Administrative Plan and all of its subsections.

10.4 Income Eligibility and Targeting

See section 5.5 of the HCVP Administrative Plan and all of its subsections.

10.4.1 Admission of Lower Income Families

The BHA has authority provide assistance to Lower Income Families in 10 percent of it Mod Rehab portfolio. This authority can only be used to prevent displacement of Families residing in the property prior to rehabilitation. The BHA considers Lower Income Families to be in danger of displacement if the post-rehabilitation rents, plus the Tenant supplied utilities, exceed 30 percent of the Family's adjusted gross income (gross income minus deductions).

10.4.2 Accessibility for Disabled Persons

The BHA may use a portion of its allocations to provide barrier-free Units for Disabled Persons. If selected proposals include Units that are already occupied by the Disabled, Owners will be required to permit Reasonable Modifications as required by law. See also 24 C.F.R. § 100.203. When barrier-free Units become vacant, Disabled Applicants on the Owner's waiting list with similar Disabilities will be given preference to lease these Units.

10.5 Review of Citizenship and Eligible Immigration Status

See section 5.6 of the HCVP Administrative Plan and all of its subsections.

CHAPTER 11: LEASING IN THE MOD REHAB PROGRAM

11.1 Preparing the Lease

11.1.1 Determinations and Verification

Upon execution of the HAP Contract and determination of Applicant eligibility, the BHA shall determine: the appropriate "Utility Allowance;" the "Utility Reimbursement," if any; and the Family's share of the rent. At the same time, the staff will ensure that the Family's income verification is still valid in accordance with BHA the verification requirements set forth in Chapter 8 of this Administrative Plan.

11.1.2 Lease Effective Date

BHA staff will prepare leases that may become effective as early as the date of the HAP Contract, but *no earlier* than the date on which the new Tenant takes occupancy of the unit.

11.1.3 Term of Lease

The initial lease between the Family and the Owner will be for at least one year or the term of the HAP Contract, whichever is shorter. In cases where there is less than one year remaining on the HAP Contract, the Owner and the BHA may mutually agree to terminate the Unit from the HAP Contract instead of leasing the family to an Eligible Family. See 24 C.F.R. § 882.403(d)(1).

Any renewal or extension of the Lease term for any Unit will in no case extend beyond the remaining term of the HAP Contract. See 24 C.F.R. § 882.403(d)(2).

The procedures set forth in Section 7.4.2 of the Housing Choice Voucher Program apply when the owner would like to amend or use a lease other than the Model Lease provided by BHA.

11.1.4 Lease Limits for SRO Units

Leases for SRO Units will limit occupancy to one eligible individual. See 24 C.F.R. § 882.802 & 882.808(c).

11.3 Signing the Lease

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. See also, the definition of an Emancipated Minor in the Glossary.