



**HOUSING AUTHORITY OF THE TOWN OF BEAUFORT**

# **ADMISSIONS AND OCCUPANCY POLICY**

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## Chapter 1

### STATEMENT OF POLICIES AND OBJECTIVES

#### **INTRODUCTION**

The Public Housing Program was created by the U.S. Housing Act of 1937.

Administration of the Public Housing Program and the functions and responsibilities of the Beaufort Housing Authority staff shall be in compliance with this Admissions and Continued Occupancy Policy. The administration of Beaufort Housing Authority's Public Housing Program will also meet the requirements of the Department of Housing and Urban Development. Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State and local laws, including Fair Housing Laws and regulations also apply. Changes in applicable federal laws or regulations shall supersede provisions in conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Parts 1, 5, 8, 100 and 900-966 (Code of Federal Regulations).

#### **A. HOUSING AUTHORITY MISSION STATEMENT**

The Housing Authority of the Town of Beaufort will continue excellent customer service, provide safe, decent, affordable housing, and encourage higher quality family life for eligible residents in an economically self-sufficient drug and crime free environment without discrimination.

#### **B. LOCAL OBJECTIVES**

This Admissions and Continued Occupancy Plan for the Public Housing Program is designed to demonstrate that the BHA is managing its program in a manner that reflects its commitment to improving the quality of housing available to its public, and its capacity to manage that housing in a manner that demonstrates its responsibility to the public trust. In addition, this Admissions and Continued Occupancy Policy is designed to achieve the following objectives:

To provide improved living conditions for very low and low income families while maintaining their rent payments at an affordable level.

To operate a socially and financially sound public housing agency that provides decent, safe, and sanitary housing within a drug free, suitable living environment for tenants and their families.

To lawfully deny the admission of applicants, or the continued occupancy of residents, whose habits and practices reasonably may be expected to adversely affect the health, safety, comfort or welfare of other residents or the physical environment of the neighborhood, or create a danger to BHA employees.

To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.

To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable Federal laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, religion, creed, sex, national origin, handicap, familial status or limited English Proficiency.

**C. PURPOSE OF THE POLICY**

The purpose of this Admissions and Continued Occupancy Policy (ACOP) is to establish guidelines for the Beaufort Housing Authority staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements of the Department of Housing and Urban Development (HUD) with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the BHA.

The BHA Board of Commissioners must approve the original policy and any changes.

**D. FAIR HOUSING POLICY**

It is the policy of the BHA to 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. The BHA will comply with all laws relating to Civil Rights, 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)
- Any applicable State laws or local ordinances and any legislation protecting individual rights of tenants, applicants or staff that may subsequently be enacted.

The BHA shall not discriminate because of race, color, sex, religion, familial status, disability, handicap, age, Limited English Proficiency or national origin in the leasing, rental, or other disposition of housing or related facilities, including land, that is part of any project or projects under the BHA's jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended, or in the use or occupancy thereof.

The BHA shall not, on account of race, color, sex, religion, familial status, disability, national origin or limited English proficiency:

Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to lease housing suitable to its needs;

Provide housing that is different from that provided to others;

Subject a person to segregation or disparate treatment;



Restrict a person'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; or

Deny a person access to the same level of services.

The BHA shall not automatically deny admission to a particular group or category of otherwise qualified applicants (e.g., families with children born to unmarried parents, elderly families with pets).

## **E. SERVICE AND ACCOMMODATIONS POLICY**

It is the policy of the BHA to provide courteous and efficient service to all applicants for housing assistance. In that regard, the BHA will endeavor to accommodate persons with disabilities, as well as those persons with language and literacy barriers including making referrals to local agencies.

This policy is applicable to all situations described in this Admissions and Continued Occupancy Policy when a family initiates contact with the BHA, when the BHA initiates contact with a family including when a family applies, and when the BHA schedules or reschedules appointments of any kind.

It is the policy of the BHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to the families within our jurisdiction.

The BHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known at application and annual re-examination. All requests will be verified so that the BHA can properly accommodate the need presented by the disability.

### **Federal Americans with Disabilities Act of 1990**

With respect to an individual, the term "disability," as defined by the 1990 Act means:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual; or

A record of such impairment, or

Being regarded as having such impairment.

### **Undue Hardship**

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create an "undue financial and administrative burden" for the BHA, meaning an action requiring "significant difficulty or expense."

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

The nature and cost of the accommodation needed;

The overall current financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and

The number of persons currently employed at such facility, the number of families likely currently to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

### **Verification of a Request for Accommodation**

All requests for accommodation or modification of a unit will be verified with a reliable, knowledgeable, professional.

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability.

### **Reasonable Accommodation**

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

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

#### **Application Process**

For purposes of this section, the BHA will make the following types of accommodations to persons with disabilities to facilitate the application process:

Permitting an authorized designee to participate in the application or certification process.

Providing a certified sign language interpreter and a certified interpreter for persons with limited English proficiencies to facilitate the application or certification process.

### **Home Visits**

Home visits may be made for families deemed disabled by the Social Security Administration and who are unable to travel to the BHA office due to their disability.

### **Other Accommodations**

The BHA may utilize organizations that provide assistance for hearing- and sight-impaired persons when needed.

Families will be offered an accessible unit, upon request by the family, when an accessible unit is available.

The BHA will refer families who have persons with disabilities to agencies in the community that offer services to persons with disabilities.

The BHA will provide a sign language interpreter for hearing impaired and limited English proficiency applicants provided an appointment is set and adhered to. The BHA will contact the interpreter and schedule the appointment with the applicant. If the applicant is negligent and fails to keep the appointment with the interpreter, the applicant will be responsible for providing the interpreter on the next visit.

#### **F. TRANSLATION OF DOCUMENTS**

In determining whether it is feasible to translate documents into other languages, the BHA will consider the following factors:

The availability of local organizations to provide translation services to non- English speaking families.

#### **G. LANGUAGE ASSISTANCE**

The BHA will make referrals for readers if applicable to assist persons with literacy barriers in completing the application and certification process.

#### **H. FAMILY OUTREACH**

The BHA will publicize and disseminate information to make known the availability of housing units and housing-related services for very low income families as needed.

The BHA will communicate the status of housing availability to other service providers in the community. The BHA will advise them of housing eligibility factors and guidelines in order that they can make proper referrals for those who seek housing.

When the BHA's waiting list is open, the BHA will periodically, as needed, publicize the availability and nature of housing assistance for very low income and low income families in a newspaper of general circulation.

#### **I. PRIVACY RIGHTS**

Applicants and participants, including all adults in their households, are required to sign the form HUD-9886, "Authorization for Release of Information and Privacy Act Notice." This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The BHA's policy regarding release of information is in accordance with State and local laws that may restrict the release of family information.

BHA staff will not discuss or access family information contained in files unless there is a business

reason to do so. Staff will be required to disclose whether s/he has relatives living in Public Housing. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

## **J. POSTING OF REQUIRED INFORMATION**

The BHA will maintain and make available the following information:

Statement of policies and procedures governing Admissions and Continued Occupancy Policy (ACOP) or a notice of where the policy is available

Information on application taking

Directory of the BHA's housing sites

Income limits for Admission

Current schedule of routine maintenance charges

A copy of the lease

The BHA's grievance procedures

A Fair Housing Poster

Current Resident Notices

Required public notices

Schedule of Utility Allowances

Information on Screening and Eviction for Drug Abuse and other Criminal Activity.

## **K. TERMINOLOGY**

The Housing Authority of the Town of Beaufort is referred to as "BHA" or "Housing Authority" or "HA" throughout this document.

"Family" is used interchangeably with "Applicant," "Resident" or "Participant" and can refer to a single-person family.

"Tenant" is used to refer to participants in terms of their relation as a lessee to the BHA as the landlord.

"Landlord" refers to the BHA.

"Noncitizens Rule" refers to the regulation effective June 19, 1995, restricting assistance to U.S. citizens and eligible immigrants.

## Chapter 2

### ELIGIBILITY FOR ADMISSION

[24 CFR Part 960, Subpart B]

#### **INTRODUCTION**

This Chapter defines both HUD's and BHA's criteria for admission and denial of admission to the program. The policy of BHA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. The BHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the BHA pertaining to their eligibility.

#### **A. QUALIFICATION FOR ADMISSION**

It is the BHA's policy to admit qualified applicants only. An applicant is qualified if he or she meets the following criteria:

Is a family as defined in this Chapter.

Heads a household where at least one member of the household is either a citizen or eligible non-citizen. (24 CFR Part 5, Subpart E).

Meets or exceeds standards for criminal and credit background checks.

Has an Annual Income at the time of admission that does not exceed the income limit for occupancy established by HUD and posted separately in the BHA offices.

Provides a Social Security number for all family members, in accordance with HUD regulations.

This criteria may include passing the pre-admission home visit to determine feasibility of occupancy with BHA.

#### **Timing for the Verification of Qualifying Factors**

All qualifying factors of eligibility will be verified at application acceptance. All verifications over 60 days old at the time of the final eligibility determination for program admission will be re-verified as necessary.

#### **B. FAMILY COMPOSITION**

##### Definition of Family

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

A Family includes a family with or without a child or children. A Family includes a group of persons consisting of two or more persons related by blood, marriage, or operation of law (including foster children and adults and adopted children) or one or more elderly or disabled persons living with a live-in aide. An unmarried couple who are parents of a child in common residing with them shall be treated as related by blood and constitute a family.

Elderly and disabled families are defined by HUD in CFR 5.403.

The term "Family" also includes, but is not limited to:

A family with or without children;

An elderly family;

A disabled family;

A single person who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family.

### **Head of Household**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. "Head of Household" includes both husband and wife, if both are present in the household, jointly and separately.

Emancipated minors who qualify under State law will be recognized as head of household if there is a court order recognizing them as an emancipated minor.

### **Spouse of Head**

Spouse means the husband or wife of the head.

The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **Live-In Attendants**

A Family may include a live-in aide provided that such live-in aide:

Is determined by the BHA to be essential to the care and well being of an elderly person, or a person with disabilities,

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides may not be considered as a remaining member of the tenant family.

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

Family members of a live-in attendant may also reside in the unit, providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the family member(s) does not overcrowd the unit.

A live-in aide may only reside in the unit with the approval of the BHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly or disabled.

After the BHA approves the addition of a live-in aide on behalf of a resident, the resident must submit a specific live-in aide's name and information for approval by the BHA.

Live-in aides may only reside in the unit with the approval of the BHA. The BHA shall make the live-in aide subject to the agency's normal screening criteria.

If the live-in aide or their family members participate in drug-related or criminal activity, the BHA will rescind the aide's right to occupy the unit. When the agency takes such action against the live-in aide, the aide is not entitled to the grievance hearing process of the agency.

The BHA has the right to disapprove a request for a live-in aide based on the "Other Eligibility Criteria" described in this Chapter.

### **C. MANDATORY SOCIAL SECURITY NUMBERS** [24 CFR 5.216]

Families are required to provide verification of Social Security Numbers for all family members if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial of admission or termination of tenancy.

The BHA must request the applicant and participant (including each member of the household), who are not exempt under **SSN Disclosure**, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

- An original SSA-issued document, which contains the name and SSN of the individual; or
- An original document issued by a federal or state government agency, which contains the name and SSN of the individual.

## **SSN Disclosure**

In accordance with 24 CFR 5.216, applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:

Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.

Existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid.

Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

## **D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their income-based assistance will be calculated in accordance with HUD regulations. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Noncitizen students defined by HUD in the non-citizen regulations are not eligible for assistance.

## **E. OTHER ELIGIBILITY CRITERIA**

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

to pay rent and other charges as required by the lease in a timely manner;

not to owe debts to other HUD-funded landlords or public utilities;

to care for and avoid damaging the unit and common areas;



to use facilities, appliances and equipment in a reasonable way;

to create no health or safety hazards, and to report maintenance needs in a timely manner;

not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;

not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity or violent criminal activity on or off the BHA premises;

not to have ever been convicted of manufacturing or producing methamphetamine, also known as "speed," on the premises of assisted housing;

not to contain a household member subject to lifetime sex offender registration requirement under a State Sex offender registration program;

to comply with necessary and reasonable rules and program requirements of HUD and the BHA; and,

to comply with local health and safety codes.

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the BHA to fully endorse and implement a policy that is designed to:

Help create and maintain a safe and drug-free community;

Keep our program participants free from threats to their personal and family safety;

Support parental efforts to instill values of personal responsibility and hard work;

Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and

Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

It is the policy of BHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

As part of eligibility determination, the Authority will screen each applicant household to assess its suitability as renters.

Factors not related to economics to be considered are housekeeping habits, prior history as a tenant, criminal records, and the ability of the applicant to maintain the responsibilities of tenancy.

In determining qualifications for tenancy, BHA shall consider the following items:

Whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety, or welfare of other residents, or the physical, environmental, or financial stability of the development.

Conduct in previously assisted housing as determined by information through EIV and other reliable sources. If unfavorable information is obtained, then applicant/tenant must provide further information that the negative information has been fully resolved before BHA will allow the family any further processing for program benefits.

BHA shall rely upon sources of information which may include, but are not limited to, BHA records, the records of other housing authorities, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians, or the police department. This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant or tenant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety, or welfare.

An authorized representative of BHA shall document any pertinent information relative to the following:

Criminal Activity – including the activities further defined herein as of a criminal nature.

Pattern of Violent Behavior – includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to neighbors' peaceful enjoyment of their premises. HUD defines violent criminal activity as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity was/is being engaged in by any family member.

Pattern of Drug Use – includes a determination by BHA that the applicant has exhibited a pattern of illegal use of a controlled substance that might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Drug Related Criminal Activity – includes a determination by BHA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance or possession of drug paraphernalia.

Pattern of Alcohol Abuse – includes a determination by BHA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

Initiation of Threats – or behaving in a manner indicating an intent to assault employees or other residents.

Abandonment of a Public Housing Unit or Other Assisted Housing Unit (“skipped”) – any abandonment of a unit assisted by HUD without advising the administering housing authority’s personnel of intent to vacate so that the unit may be properly secured and protected from any vandalism.

Non-payment of Rightful Obligations – including rent and/or utilities and other charges owed to BHA or another housing authority.

Intentionally Falsifying an Application for Leasing – including providing false information about family income and family composition, using an alias on the application for housing, or making any other material false statement or omission intended to mislead.

Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior – consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility, which damage the equipment or premises in which the applicant resides, or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant’s inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.

Unsanitary Housekeeping – includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment caused by the family or persons under control of the family; seriously affecting neighbors by causing infestations, foul odors, depositing garbage outside of normal trash receptacles, or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors or a threat to health and safety.

Destruction of Property – damage to any previous rentals or property that the family has resided in.

### **Denial of Admission for Previous Debts to This or Any Other PHA or Prior Lease Violations**

Previous outstanding debts to BHA or any PHA resulting from a previous tenancy in the public housing or Section 8 program must be paid in full prior to admission.

Either spouse is responsible for the entire debt incurred as a previous BHA tenant. All family members on the lease that were 18 years of age or older will be equally as liable for the family debt owed to the BHA.

The family will not be eligible for admission if any family member was evicted by the BHA (or vacated to avoid eviction action) for serious lease violations within the past three years.

## **F. DRUG-RELATED AND/OR OTHER CRIMINAL ACTIVITY**

### **Definitions**

"Drug-related criminal activity" is the illegal possession, manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use a controlled substance or possession of drug paraphernalia.

"Drug-related criminal activity" means on or off the premises, not just on or near the premises.

"Covered person" means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

"Criminal activity" includes any criminal activity that threatens the health, safety or right to peaceful enjoyment of the resident's public housing premises by other residents or employees of the BHA.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"Guest" for purposes of this Chapter, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

"Household" means the family and BHA-approved live-in aide.

"Other person under the tenant's control," for the purposes of the definition of "covered person", means that the person, although not staying as a guest (as defined above) in the unit is, or was at the time of the activity in question, on the premises (as defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

"Premises" means the building or complex or development in which the public housing dwelling unit is located, including common areas and grounds.

"Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### **Use of Law Enforcement Records**

The BHA will check criminal history for all applicants who are 18 years of age in the household to

determine whether any member of the family has engaged in felony, violent or drug-related criminal activity.

The BHA will check criminal history for all applicants who are 18 years of age in the household to determine whether any member of the family is subject to a lifetime sex offender registration requirement.

### **Standard for Violation**

The BHA will screen for felonies, drug-related and/or violent criminal activity for family members 18 years of age or older. Applicants will be ineligible for housing for 7 years from the date of the criminal conviction.

Persons released from probation, parole, or incarceration (for any of the above noted criminal activity) for less than 1 year, will be ineligible for admission to housing. This does not change the requirement for eligibility that a person must wait 7 years from the date of criminal conviction to be eligible for public housing.

Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to Public Housing for a 7 year period beginning on the date of such eviction.

The BHA will deny participation in the program to applicants where the BHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. This includes cases where the BHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse. The BHA shall not admit persons whose pattern of illegal use of a controlled substance or pattern of abuse of alcohol within the past seven (7) years preceding the date of application may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Applicants and/or their household members who have been convicted of criminal sexual conduct, including but not limited to sexual assault, incest, statutory sexual seduction, open and gross lewdness, or child abuse, and are required by law to register as a sex offender will be prohibited from participation in the housing program for a period of 1 year after the termination of the registration requirement.

No family member may have engaged in or threatened abusive or violent behavior toward BHA staff within the last 7 years.

No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last 5 years.

### **Permanent Denial of Admission**

The BHA will permanently deny admission to public housing persons convicted of manufacturing or producing methamphetamine on the premises of the assisted housing project in violation of any Federal or State law. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds. The BHA will not waive this requirement.

The BHA will permanently deny admission to public housing to any family in which a family member is subject to a lifetime sex offender registration requirement. This provision will not be waived. The BHA shall perform necessary criminal history background checks in the State where the housing is located and in any other States where household members are known to have resided.

### **Confidentiality of Criminal Records**

The BHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports will be kept in secured files with access restricted to individuals responsible for such screening.

Misuse of the above information by any employee will be grounds for termination of employment. .

If the family is determined eligible for initial or continued assistance, the BHA's copy of the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The BHA will document in the family's file that the family was denied admission or the tenancy was terminated due to findings in the Criminal History Report.

### **Disclosure of Criminal Records to Family**

Before the BHA takes any adverse action based on a criminal record, the applicant and subject of record will be provided with a copy of the criminal record and an opportunity to dispute the record. Applicants will be provided an opportunity to dispute the record at an informal hearing. Tenants may contest such records at the grievance hearing or court hearing in the case of evictions.

### **G. SCREENING FOR SUITABILITY** [24 CFR 960.203, 960.204, 960.205]

The BHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of

preference for admission, housing history, allowances, family composition or rent will result in denial of admission.

All applicant head of households must be 18 years of age or older or emancipated by the courts as an adult.

As a part of the final eligibility determination, the BHA will screen each applicant household to assess their suitability as renters.

The BHA will complete a rental history check on all applicants.

The BHA may rely upon sources of information which may include, but are not limited to, BHA records, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department, and home visits.

This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

Factors to be considered in the screening are housekeeping habits, rent paying habits, prior history as a tenant, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety or welfare of other residents, or the physical environment, or the financial stability of the property.

The BHA's examination of relevant information pertaining to past and current habits or practices may include, but is not limited to, an assessment of:

The applicant's past performance in meeting rental obligations.

Eviction or a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.

Any history of criminal activity on the part of any applicant family member involving criminal acts, including drug-related criminal activity.

Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.

Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other tenants.

Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the BHA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

BHA will not deny admission to the program based solely on a family's status as a victim of domestic violence victim, dating violence or stalking.

Applicants with negative rental histories, criminal histories or home visit results, will be denied admission to the program.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24CFR 960.203(c)]

Adversely affect the physical environment or financial stability of the property. [24CFR 960.203(c)]

Violate the terms and conditions of the lease. [24CFR 960.203(c)].

Require services from BHA staff that would alter the fundamental nature of the BHA's program. [24 CFR 8.3]

### **Rent Paying Habits**

The BHA will examine any Housing Authority records from a prior tenancy, and will request references from the applicant's current landlord and may request references from former landlords from the previous 5 years.

Based upon these verifications, the BHA will determine if the applicant was chronically late with rent payments, was evicted at any time nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

The BHA may undertake a balancing test that will consider: (1) amount of former rent; (2) loss of employment; (3) death or divorce from primary support; (4) illness or other circumstances beyond applicant's control. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

### **Screening Applicants Who Claim Mitigating Circumstances**

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one,



justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the BHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the BHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. The BHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

### **Examples of Mitigating Circumstances**

Evidence of successful rehabilitation;

Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the BHA;

Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The BHA will consider such circumstances in light of:

The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and

The applicant's overall performance with respect to all the screening requirements.

### **Qualified and Unqualified Applicants**

Information that has been verified by the BHA will be analyzed and a determination will be made with respect to:

The eligibility of the applicant as a family;

The eligibility of the applicant with respect to income limits for admission;

The eligibility of the applicant with respect to citizenship or eligible immigration status;

Any local preference to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and BHA procedures.

Applicants who are determined to be unqualified for admission will be promptly notified in writing, stating the reason for the denial. The BHA shall provide applicants an opportunity for an informal hearing.

**Prohibited Criteria for Denial of Admission**

Applicants will NOT be rejected because they:

Have no income;

Are not employed;

Do not participate in a job training program;

Will not apply for various welfare or benefit programs;

Have children;

Have children born out of wedlock;

Are on welfare;

Are students;

Are victims of domestic violence, dating violence, stalking or for violence beyond their control.

## Chapter 3

### APPLYING FOR ADMISSION

#### **INTRODUCTION**

The policy of the BHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the BHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Policy.

#### **A. HOW TO APPLY**

Families who wish to apply for housing with the BHA must complete a written application form. Applications will be made available in an accessible format upon request from a person with a disability.

As a reasonable accommodation, persons with disabilities may request the BHA staff go to the applicant's home to take an application.

The application process will involve two phases.

1. The first is the "initial" application for admission. This first phase is to determine the family's eligibility for, and placement on, the waiting list.
2. The second phase is the "final determination of eligibility for admission". The full application takes place when the family reaches the top of the waiting list. At this time the BHA ensures that verification of all HUD and BHA eligibility factors is current in order to determine the family's eligibility for an offer of a suitable unit.

#### **B. "INITIAL" APPLICATION PROCEDURES**

The BHA will utilize an application form for the initial application for housing. The application is taken in person and the data is entered into the computer. As a reasonable accommodation for persons with disabilities, a home visit may be made to complete the application. The purpose of the application is to permit the BHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list.

The application will contain questions designed to obtain the following information:

- Names of head and spouse
- Names of all members and age of all members

Number of family members (used to estimate bedroom size needed)  
Street address and phone numbers  
Mailing address (if PO Box or other permanent address)  
Annual income  
Source(s) of income received by household members  
Preference status  
Sufficient additional information to determine preference qualification  
Information regarding request for reasonable accommodation or for accessible unit  
Social Security Numbers  
Race/ethnicity  
Questions regarding previous participation in HUD programs and rental information.

All preferences claimed on the application or while the family is on the waiting list(s) will be verified.

If a preference cannot be verified, said applicant will be returned to their proper place on the waiting list and preference removed.

Applicants are requested to inform the BHA of changes in family composition, income, and address, as well as any changes in their Preference status. Applicants are also required to respond to requests from the BHA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list.

Picture IDs are required of all family members 18 years of age and older.

### **C. NOTIFICATION OF APPLICANT STATUS**

If, after a review of the application, the family is determined to be preliminarily eligible, they will be notified in writing (in an accessible format upon request, as a reasonable accommodation).

This written notification of preliminary eligibility will be mailed to the applicant by first class mail. If the family is determined to be ineligible based on the information provided in the application and eligibility screening, the BHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal hearing. Persons with disabilities may request to have an advocate attend the informal hearing as an accommodation.

#### **Requirement to Attend Interview**

The BHA utilizes the application interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the

information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process.

All adult family members must attend the interview and sign the housing application. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment.

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

All adult members, and head of household and spouse regardless of age, must sign form HUD-9886, "Release of Information," the declarations and consents related to citizenship/immigration status and any other documents required by the BHA. Applicants will be required to sign specific verification forms for information that is not covered by the HUD-9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and releases as required by the BHA.

Information provided by the applicant will be verified, including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to preferences, eligibility, and rent calculation.

If the BHA determines at or after the interview that additional information or document(s) are needed, the BHA will request the document(s) or information by telephone or in writing.

If the information is not supplied, the BHA will provide the family a notification of denial for assistance.

#### **D. PROCESSING APPLICATIONS**

As families approach the top of the waiting list, the following items will be verified to determine final qualification for admission to the BHA's housing:

- Family composition and type
- Annual Income
- Assets and Asset Income
- Deductions from Annual Income
- Social Security Numbers of all family members
- Information used in applicant screening
- Pre-admission home visit
- Criminal and rental reports
- Preference status

**E. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

After the verification process is completed, the BHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verifications completed by the BHA, and the tenant suitability determination.

Because HUD can make changes in rules or regulations and family circumstances may have changed during the review process that affect an applicant's eligibility, it is necessary to make final eligibility determination.

The household is not actually eligible for a unit offer until this final determination has been made, even though they may have been preliminarily determined eligible and may have been listed on the waiting list.

## **Chapter 4**

### **TENANT SELECTION AND ASSIGNMENT PLAN**

(Includes Preferences and Managing Waiting List)

[24 CFR 960.203, 960.204, 960.205, 960.206]

#### **INTRODUCTION**

Applicants will be waitlisted in sequence based upon the date and time the application is received. Applications submitted by mail or fax will be deemed received on the date of the latest current, regularly scheduled application interview, and at the hour following that interview.

In filling an actual or expected vacancy, the BHA will offer the dwelling unit to an applicant in the appropriate sequence. The BHA will offer the unit until it is accepted. This Chapter describes the BHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list.

#### **BHA's Objectives**

Policies will be followed consistently and will affirmatively further HUD's fair housing goals.

It is the BHA's objective to ensure that families are placed in the proper order on the waiting list so that the offer of a unit is not delayed to any family unnecessarily or made to any family prematurely. This chapter explains the policies for the management of the waiting list.

When appropriate units are available, families will be selected from the waiting list in their date- and time-determined sequence.

By maintaining an accurate waiting list, the BHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available to fill unit vacancies in a timely manner.

#### **A. MANAGEMENT OF THE WAITING LIST**

The BHA will administer a single waiting list for Public Housing. The waiting list will be maintained in accordance with the following guidelines:

The application will be a permanent file.

All applicants on the waiting list will be maintained in order of date and time of application receipt and bedroom size.

All applicants must meet applicable income eligibility requirements as established by HUD.

### **Opening and Closing the Waiting Lists**

The BHA, at its discretion, may restrict application intake, suspend application intake, and close the waiting list in whole or in part.

The decision to close the waiting list will be based on the number of applications available for a particular size and type of unit and the ability of the BHA to house an applicant in an appropriate unit within a reasonable period of time.

When the BHA reopens the waiting list, the BHA will advertise through public notice in The Carteret News Times.

Agencies notified of waiting list status will include but not be limited to the Carteret County Department of Social Services.

### **When Application Taking is Suspended**

The BHA may suspend the acceptance of applications if there are enough applicants to fill anticipated openings for the next 12 months.

The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

During the period when the waiting list is closed, the BHA will not maintain a list of individuals who wish to be notified when the waiting list is open.

Suspension of application taking is announced in the same way as opening the waiting list. The BHA will give at least 14 day's notice prior to closing the list. When the period for accepting applications is over, the BHA will add the new applicants to the list by date and time.

The BHA will update the waiting list at least annually by removing the names of those families who are no longer interested, no longer qualify for housing, or cannot be reached by mail or telephone. At the time of initial intake, the BHA will advise families of their responsibility to notify the BHA when mailing address or telephone numbers change.

### **Reopening the List**

If the waiting list is closed and the BHA decides to open the waiting list, the BHA will publicly announce the opening.

### **Limits on Who May Apply**

When the waiting list is open,

Any family asking to be placed on the waiting list will be given the opportunity to complete an application.



When the application is submitted to the BHA,

It establishes the family's date and time of application for placement order on the waiting list

**B. WAITING LIST PREFERENCES**

The BHA has opted not to use waiting list preferences.

**C. INCOME TARGETING**

The BHA will monitor its admissions to ensure that at least 40 percent of families admitted to public housing in each fiscal year shall have incomes that do not exceed 30% of area median income of BHA's jurisdiction.

**Low Income Family Admissions**

The BHA will admit only families whose incomes do not exceed 80% of the HUD approved area median income.

**D. UNITS DESIGNATED FOR THE DISABLED**

The BHA has units designed for persons with mobility impairments (referred to as accessibility units). These units were designed and constructed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other modifications.

Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the units.

**E. REMOVAL FROM WAITING LIST AND PURGING**

The waiting list may be purged at least annually by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

If an applicant fails to respond as directed in the mailing, s/he will be removed from the waiting list. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, s/he will not be entitled to reinstatement unless a person with a disability requests a reasonable accommodation for being unable to reply within the prescribed period.

## **F. OFFER OF ACCESSIBLE UNITS**

The BHA has units designed for persons with mobility impairments, referred to as accessible units.

No non-mobility impaired families will be offered these units until all eligible mobility-impaired applicants have been considered.

Before offering a vacant accessible unit to a non-disabled applicant, the BHA will offer such units:

First, to a current occupant of another unit of the BHA, who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible/adaptable unit to a non-disabled applicant, the BHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the applicant. This requirement will be a provision of the lease agreement.

## **G. PLAN FOR UNIT OFFERS**

The plan for selection of applicants and assignment of dwelling units to assure equal opportunity and non-discrimination on grounds of race, color, sex, religion, or national origin is as follows:

Unit assignments must be in sequence and must be based on the size and type of unit required and date and time of application. If more than one unit of the appropriate type and size is available, the first unit to be offered will be the first unit that is ready for occupancy.

The applicant at the top of the waiting list will be offered a suitable unit. If such offer is rejected, the applicant's name will be moved to the bottom of the waiting list.

If the applicant presents satisfactory evidence that acceptance of the offered unit would result in undue hardship, then the applicant would not be considered to have been offered a unit, and the refusal would not count as a rejection.

If the applicant is willing to accept the unit but is unable to move at the time of the offer and presents clear evidence of his/her inability to move, to the BHA's satisfaction, refusal of the offer shall be considered an allowable refusal and the applicant's name will not be moved to the bottom of the waiting list.

An applicant who is dropped from the waiting list because a disability interfered with the ability to respond to the BHA's request can be reinstated as a reasonable accommodation.

An applicant will be by-passed on the waiting list if under investigation by any government agency, (for activity that would make the applicant ineligible) until the applicant is convicted or acquitted.

The BHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

**H. TIME-LIMIT FOR ACCEPTANCE OF UNIT**

Applicants must accept a unit offer within 3 days of the date the offer is made. Offers made over the telephone will be confirmed by letter.

## Chapter 5

### OCCUPANCY GUIDELINES

#### **INTRODUCTION**

The Occupancy Guidelines are established by the BHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. This Chapter explains the Occupancy Guidelines used to determine minimum and maximum unit sizes for various sized families when they are selected from the waiting list, or when a family's size changes, or when a family requests an exception to the occupancy guidelines.

#### **A. DETERMINING UNIT SIZE**

The BHA does not determine who shares a bedroom/sleeping room, but there must generally be at least one person per bedroom. The BHA's Occupancy Guideline standards for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.

For occupancy standards, an adult is a person 18 years or older or emancipated minor.

All guidelines in this section relate to the number of bedrooms in the unit. Dwelling units will be so assigned that:

One bedroom will generally be assigned for every two family members. The BHA will consider factors such as family characteristics including sex, age, or relationship, the number of bedrooms and size of sleeping areas or bedrooms and the overall size of the dwelling unit. Consideration will also be given for medical reasons and the presence of a live-in aide.

Generally the BHA will assign one bedroom to two people within the following guidelines:

Adults, other than adults who have a spousal relationship, should not be required to share a bedroom, although they may do so at the request of the family.

Two children of the opposite sex, with at least one being 4 years of age or older, should not be required to share a bedroom, although they may do so at the request of the family.

Two children of the same sex, with at least one being 6 years of age or older, should not be required to share a bedroom, although they may do so at the request of the family.

An unborn child will be counted as a person for purposes of determining unit size.

Separate bedrooms should be allocated for foster adults and/or foster children.

Live-in attendants will be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family during school recesses.

Space will not be provided for a family member who will be absent most of the time, such as a member who is away in the military.

Single person families shall be allocated one bedroom.

The living room will not be used as a bedroom except for purposes of reasonable accommodation.

**GUIDELINES FOR DETERMINING BEDROOM SIZE**

Bedroom Size	Persons in Household: (Minimum #)	Persons in Household: (Maximum #)
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	5	10

**B. EXCEPTIONS TO OCCUPANCY STANDARDS**

The BHA will grant exceptions from the guidelines in cases where it is the family's request (for a smaller unit) or the BHA determines the exception (for a larger unit) is justified by the relationship, age, sex, health or disability of family members, or other individual circumstances, and there is a vacant unit available. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:

The family may request to be placed on a larger bedroom size waiting list than indicated by the BHA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size, and must be verified by the BHA before the family is placed on the larger bedroom size list. The BHA will consider these requests:

### **Persons with a Disability**

The BHA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the need is appropriately verified.

Circumstances may dictate a larger size than the occupancy standards permit when:

Persons cannot share a bedroom because of a need for medical equipment due to its size and/or function.

Requests for a larger bedroom size due to medical equipment must be verified by a knowledgeable professional.

Requests based on health related reasons must be verified by a knowledgeable professional.

All members of the family residing in the unit must be approved by the BHA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the BHA within 10 days.

To avoid vacancies, the BHA may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease and if the family refuses a new lease for a smaller unit, eviction procedures will begin.

### **C. ACCESSIBLE UNITS**

The BHA has units designed for persons with mobility impairments. These units were designed specifically to meet the needs of persons requiring the use of wheelchairs and persons requiring other modifications.

Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the units.

No non-mobility-impaired families will be offered these units until all eligible mobility-impaired applicants have been considered.

Accessible units will be offered and accepted by non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date if a person with a mobility impairment requiring the unit applies for housing and is determined eligible.

#### **D. FAMILY MOVES**

When a change in the circumstances of a tenant family requires another unit size, the family's move depends upon the availability of a suitable size and type of unit. If the unit is not available at the time it is requested, the family will be placed on the Transfer List.

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If an unusual situation occurs, which is not currently covered in this policy, the case should be taken to the Executive Director, who will make determination after review of the situation, the individual circumstances, and the verification provided.

If it is determined that a unit size is no longer appropriate for a family, the family will be notified in writing of the need to transfer. The family will be offered the appropriate size unit. If the family refuses to move, the lease will be terminated.

The BHA may transfer a family to another unit if it is determined the unit the family resides in is in need of rehabilitation.

The BHA will consider a request by a family to transfer to a larger or smaller unit due to medical reason verified by a licensed medical professional or for domestic violence.

## Chapter 6

### INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

#### INTRODUCTION

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

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and BHA policies for calculating annual income are found in Part I.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the BHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and BHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice in rents.

#### PART I: ANNUAL INCOME

##### 6-I.A. OVERVIEW

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

5.609 Annual income.

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - (3) Which are not specifically excluded in paragraph [5.609(c)].
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

##### 6-I.B. HOUSEHOLD COMPOSITION AND INCOME



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

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or cohead Other adult family members	All sources of income 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 cohead)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

### **Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

### **Absent Full-Time Students**

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

### **Court-Ordered Absences**

If a member of the family is subject to a court order that restricts the member from the home, the BHA will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in the chapter on eligibility.

### **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, the BHA 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.

### **Absences Due to Incarceration**

If the BHA determines a family member's absence due to incarceration is due to any action that would render the member ineligible for housing, or is permanent (greater than 30 days) the income will not be counted.

If the BHA determines the reason for incarceration does not violate the lease and the absence is temporary (30 days or less), the income will be counted.

### **Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

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

### **Joint Custody of Children**

In the case of joint custody, only one family may claim a child as a dependent. When two assisted families could conceivably claim the child, the two families must resolve the issue and declare which household will receive the dependent deduction. If the two households are unable to resolve the issue, the BHA will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing and how much time the child spends in each household.

## **6-I.C. ANTICIPATING ANNUAL INCOME**

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

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

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

An imminent change in circumstances is expected.

It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]

The BHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

When the BHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the BHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the BHA to show why the historic pattern does not represent the family's anticipated income.

### **Using Up-Front Income Verification (UIV) to Project Income**

HUD strongly recommends the use of up-front income verification (UIV). UIV is “the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals” .

HUD allows PHAs to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

BHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the BHA interview date.

The BHA will follow “HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available” in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of \$200 or more per month.

**No Substantial Difference.** If UIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the BHA will follow these guidelines:

If the UIV figure is less than the family's figure, the BHA will use the family's information.

If the UIV figure is more than the family's figure, the BHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the BHA will use the family-provided information.

**Substantial Difference.** If UIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the BHA will follow these guidelines:

The BHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the BHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the BHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The BHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The BHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

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

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

### **Types of Earned Income Not Counted in Annual Income**

**Temporary, Nonrecurring, or Sporadic Income** [24 CFR 5.609(c)(9)]. Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed. Such income is not counted.

**Children's Earnings.** Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)].

**Certain Earned Income of Full-Time Students.** Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

**Income of a Live-in Aide.** Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)].

**Income Earned under Certain Federal Programs.** Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g),

5058)

Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))

Awards under the federal work-study program (20 U.S.C. 1087 uu)

Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

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

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

**State and Local Employment Training Programs.** Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

The BHA defines training program as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” .

- The BHA defines incremental earnings and benefits as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

In calculating the incremental difference, the BHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the BHA's interim reporting requirements.

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

from HUD.

## BHA Policy

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

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

**Earned Income Disallowance.** The earned income disallowance is discussed in section 6-I.E below.

### **6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]**

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

#### **Eligibility**

This disallowance applies only to individuals in families already participating in the public housing program (not at initial admission). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

Employment of a family member who was previously unemployed for one or more years prior to employment. Previously unemployed includes a 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.

Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or 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 [24 CFR 5.603(b)].

New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

#### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins

with a comparison of the member's current income with his or her "prior income."

The BHA defines prior income, or pre-qualifying income, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or pre-qualifying, income remains constant throughout the period that he or she is receiving the EID.

**Initial 12-Month Exclusion.** During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

**Second 12-Month Exclusion and phase-In.** During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

**Lifetime Limitation.** The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the BHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her pre-qualifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

#### **6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]**

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

#### **Business Expenses**

Net income is "gross income less business expense" [HCV GB, p. 5-19].

To determine business expenses that may be deducted from gross income, the BHA will use

current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

### **Business Expansion**

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

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

### **Capital Indebtedness**

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

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

### **Negative Business Income**

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

### **Withdrawal of Cash or Assets from a Business**

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

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

### **Co-owned Businesses**

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



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

### **Overview**

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

How the value of the asset will be determined

How income from the asset will be calculated

### **General Policies**

#### **Income from Assets**

The BHA 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 the BHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the BHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the BHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the BHA to show why the asset income determination does not represent the family’s anticipated asset income.

### **Valuing Assets**

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

The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).

The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

### **Lump-Sum Receipts**

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not

income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

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

When net family assets are \$5,000 or less, the BHA 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 BHA 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 the current HUD-established passbook savings rate.

### **Determining Actual Anticipated Income from Assets**

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

### **Withdrawal of Cash or Liquidation of Investments**

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

### **Jointly Owned Assets**

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

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

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

HUD regulations require the BHA to count as a current asset any business or family asset that was

disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

### **Minimum Threshold**

The BHA may set a threshold below which assets disposed of for less than fair market value will not be counted.

The BHA 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 re-certifications, the family may request an interim re-certification 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.

### **Separation or Divorce**

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

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

### **Foreclosure or Bankruptcy**

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

### **Types of Assets**

#### **Checking and Savings Accounts**

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

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

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

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

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

Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]

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 as described in section 6-I.F.

Interests in Indian Trust lands [24 CFR 5.603(b)]

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

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a 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 the BHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### **Trusts**

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

one or more third parties (the beneficiaries).

### **Revocable Trusts**

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. 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 [24 CFR 5.603(b)].

### **Retirement Accounts**

#### **Company Retirement/Pension Accounts**

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

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

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

#### **IRA, Keogh, and Similar Retirement Savings Accounts**

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

### **Personal Property**

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

In determining the value of personal property held as an investment, the BHA will use the family's estimate of the value. However, the BHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

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

Necessary personal property consists of 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.

### **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.

### **6-I.H. PERIODIC PAYMENTS**

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

#### **Periodic Payments Included in Annual Income**

Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)]

Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4)].

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

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

#### **Periodic Payments Excluded from Annual Income**

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) [24 CFR 5.609(c)(2)]

The BHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].  
*Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

## **6-I.I. PAYMENTS IN LIEU OF EARNINGS**

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

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

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

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

The BHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

### **Covered Families**

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other conventional assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)].

### **Imputed Income**

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or

work activities requirement, the BHA must include in annual income “imputed” welfare income. The BHA must request that the welfare agency inform the BHA when the benefits of a conventional housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### **Offsets**

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

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

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

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

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

The BHA will count court-awarded amounts for alimony and child support unless the BHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

#### **Regular Contributions or Gifts**

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

Examples of regular contributions include: (1) regular payment of a family’s bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries and clothing provided to a family on a regular basis.



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

#### **6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

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

Reimbursement of medical expenses [24 CFR 5.609(c)(4)]

The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]

Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]

Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]

Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]

Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]

Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408).
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

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

## **PART II: ADJUSTED INCOME**

### **6-II.A. INTRODUCTION**

#### **Overview**

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

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

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

#### **Anticipating Expenses**

Generally, the BHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the BHA will estimate costs based on historic data and known future costs.

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

### **6-II.B. DEPENDENT DEDUCTION**

A deduction of \$480 is taken for each dependent [24 CFR 5.611(a)(1)]. Dependent is defined as any family member other than the head, spouse who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are

never considered dependents [24 CFR 5.603(b)].

### **6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

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

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

Un-reimbursed medical expenses including non prescription medicines prescribed by a licensed medical professional 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 or spouse 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.

#### **Definition of Medical Expenses**

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

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

#### **Families That Qualify for Both Medical and Disability Assistance Expenses**

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, the BHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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

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

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income dis-allowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the BHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

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

### **Eligible Disability Expenses**

Examples of auxiliary apparatus are provided in the PH Occupancy Guidebook as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work.

### **Eligible Auxiliary Apparatus**

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

### **Eligible Attendant Care**

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

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

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

If the care attendant also provides other services to the family, the BHA 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 expenses may be deducted for payments to a member of a tenant family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

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

The BHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the BHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the BHA 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**

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, the BHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-II.F. CHILD CARE EXPENSE DEDUCTION**

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

### **Clarifying the Meaning of Child for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in a tenant family's household.

For the purposes of child care expenses, the BHA defines child to include any foster children under the age of 13 living in a tenant family's household.

## **Qualifying for the Deduction**

### **Determining Who Is Enabled to Pursue an Eligible Activity**

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

In evaluating the family's request, the BHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

### **Seeking Work**

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the BHA.

### **Furthering Education**

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### **Being Gainfully Employed**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income dis-allowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The BHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the BHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

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

### **Allowable Child Care Activities**

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the BHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Necessary and Reasonable Costs**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care



enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

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

#### **6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]**

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the BHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions.

The BHA has opted not to use permissive deductions.

### **PART III: CALCULATING RENT**

#### **6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS**

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the BHA.

### **TTP Formula [24 CFR 5.628]**

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

30 percent of the family's monthly adjusted income

10 percent of the family's monthly gross income

A minimum rent between \$0 and \$50 that is established by the BHA

The BHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

### **Minimum Rent [24 CFR 5.630]**

The BHA minimum rent for this locality is \$50.00

### **6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

If the BHA establishes a minimum rent greater than zero, the BHA must 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. If the BHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

### **HUD-Defined Financial Hardship**

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.

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

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 other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent 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.

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member’s income).

**Implementation of Hardship Exemption**

**Determination of Hardship**

When a family requests a financial hardship exemption, the BHA must suspend the minimum rent requirement beginning the first of the month following the family’s request.

The BHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

The BHA 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.

The BHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family’s request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b>			
Assume the BHA has established a minimum rent of \$35.			
<b>TTP – No Hardship</b>		<b>TTP – With Hardship</b>	
\$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
\$35	Minimum rent	\$35	Minimum rent
Minimum rent applies. TTP = \$35		Hardship exemption granted. TTP = \$15	

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing up to 10 working days after any income or rent change. The request must explain and verify the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

The BHA will make the determination of hardship within 30 calendar days.

**No Financial Hardship**

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

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

### **Temporary Hardship**

If the BHA determines that a qualifying financial hardship is temporary, the BHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the BHA the amounts suspended. HUD requires the BHA to offer a reasonable repayment agreement, on terms and conditions established by the BHA. The BHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

The BHA will enter into a repayment agreement in accordance with the BHA's repayment agreement policy.

### **Long-Term Hardship**

If the BHA determines that the financial hardship is long-term, the BHA must 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.

## **6-III.C. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]**

## **Flat Rents [24 CFR 960.253(b)]**

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent would be equivalent to the unsubsidized amount any property owner could charge and lease the unit promptly after preparation for occupancy.

To calculate a flat rent, BHA will consider the following for each property:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the BHA
- Utilities provided by the BHA

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the BHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

## **Family Choice in Rents [24 CFR 960.253(a) and (e)]**

Once each year, the BHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The BHA must document that flat rents were offered to families under the methods used to determine flat rents for the BHA.

The annual BHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The BHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The BHA must provide sufficient information for families to make an informed choice. This information must include BHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year, the BHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

For a family that chooses a flat rent, the BHA is required to conduct a reexamination of income at least once every three years.

For families who choose flat rent, BHA will conduct a reexamination of income no less than annually unless the family specifically requests a reexamination of income sooner.

BHA must conduct annual reexaminations of family composition, community service, self-sufficiency, and other criteria related to continued occupancy [24 CFR 960.257(a)].

### **Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]**

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the BHA determines that a financial hardship exists, the BHA must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by the BHA that a financial hardship exists, the BHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance

The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items

### **Review of Flat Rents**

The BHA must ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b)].

The BHA will review flat rents annually. Resulting changes, up or down, in flat rents will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit.

### **Flat Rents and Earned Income Disallowance**

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the initial 12 cumulative months of full (100 percent) and phase in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

## Chapter 7

### VERIFICATION

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

#### INTRODUCTION

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

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

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities.

#### PART I. GENERAL VERIFICATION REQUIREMENTS

##### **A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

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

##### **Consent Forms**

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

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

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



## **B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **Overview**

On December 29, 2009, HUD issued the final rule entitled *Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification (EIV) System-Amendments*, which requires PHAs to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD.

### **BHA Policy**

The BHA is required to use the EIV system in its entirety. This means the BHA must use all features of the EIV system to:

- Verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR §5.236, and HUD administrative guidance; and
- Reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

### **The EIV System**

The EIV System is a web-based application, which provides BHA with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH). This system is available to BHA. Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

BHA is required to review the EIV Income Report of each family before or during mandatory annual reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed. This UIV technique in many instances will reduce the need to mail or fax third party verification request forms to an income source. EIV also provides various reports to assist BHA with the following:

- Identifying tenants whose reported personal identifiers do not match the SSA database;
- Identifying tenants who need to disclose a SSN;

- Identifying tenants whose alternate identification number (Alt ID) needs to be replaced with a SSN;
- Identifying tenants who may not have reported complete and accurate income information;
- Identifying tenants who have started a new job;
- Identifying tenants who may be receiving duplicate rental assistance;
- Identifying tenants who are deceased and possibly continuing to receive rental assistance;
- Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.

## The Verification Hierarchy

### BHA Policy

The BHA will begin with the highest level of verification techniques. The BHA is required to access the EIV system and obtain an Income Report for each household. The BHA is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for all mandatory annual reexaminations of family income and composition.

If the Income Report does not contain any employment and income information for the family, the BHA will attempt the next lower level verification technique, as noted in the below chart.

**Level                      Verification Technique                      Ranking**

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> using HUD’s Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	Highest (Mandatory)
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	Highest (Optional)
4	<b>Written third Party Verification</b>	<b>High</b> (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory

		when tenant disputes EIV- reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
3	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation) <b>Low</b> (Mandatory if written third party verification is not available)
2	<b>Oral Third Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third party verification)

This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not always available for verifying income of applicants.

### **Verification Technique Definitions Third Party Verification Techniques**

#### **Upfront Income Verification (UIV) (Level 6/5)**

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

The EIV system is available to the BHA as a UIV technique. The BHA is encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income when available.

#### **Written Third Party Verification (Level 4)**

An original or authentic document generated by a third party source dated either within the 60-day period preceding the reexamination or the BHA request date. Such documentation may be in the possession of the tenant (or applicant), and is commonly referred to as tenant-provided documents.

These tenant-provided documents are considered written third party verification since they originated from a third party source. The BHA may, at its discretion reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third party source) include, but are not limited to:

- Pay stubs,
- Payroll summary report,
- Employer notice/letter of hire/termination,
- SSA benefit verification letter,
- Bank statements,
- Child support payment stubs,
- Welfare benefit letters and/or printouts, and;
- Unemployment monetary benefit notices.
- Current acceptable tenant-provided documents must be used for income and rent determinations.

The BHA is required to obtain at a minimum, two current pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the BHA should project income based on the information from a traditional written third party verification form or the best available information.

Documents less than 60 days (from the PHA interview/determination or request date) are acceptable for confirming effective dates of income.

### **Written Third Party Verification Form (Level 3)**

Also known as traditional third party verification. A standardized form to collect information from a third party source. The form is completed by the third party by hand (in writing or typeset). The BHA sends the form directly to the third party source by mail, fax, or email.

#### **BHA Policy**

It is the BHA's position that the administrative burden and risk associated with use of the traditional third party verification form may be reduced by the BHA relying on acceptable documents that are generated by a third party, but in the possession of and provided by the tenant (or applicant). Many documents in the possession of the tenant are derived from third party sources (i.e. employers, federal, state and/or local agencies, banks, etc.).

The BHA recognizes that third party verification request forms sent to third party sources often are not returned. In other instances, the person who completes the verification form may provide incomplete information; or some tenants may collude with the third party source to provide false information; or the tenant intercepts the form and provides false information

### **Oral Third Party Verification (Level 2)**

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique or identified by the family, via telephone or in-person visit. PHA staff should document in the tenant file, the date and time of the telephone call (or visit to the third party), the name of the person contacted and telephone number, along with the

confirmed information.

### BHA Policy

This verification will be used in the event that the independent source does not respond to the BHA's faxed, mailed, or e-mailed request for information in a reasonable time frame.

### **Non-Third Party Verification Technique Tenant Declaration (Level 1)**

The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the BHA has not been successful in obtaining information via all other verification techniques. When the BHA relies on tenant declaration, the PHA must document in the tenant file why third party verification was not available.

### **Exceptions to Third Party Verification Requirements 24 CFR §960.259(c)(1) and §982.516(a)(2)**

The exception to third party verification is, "The PHA must obtain and document in the family file third party verification of the following factors, **or must document in the file why third party verification was not available.**"

Third party verification may not be available for a variety of reasons, including:

- The BHA may have made numerous attempts to obtain the required verifications with no success, or
- It may not be cost effective to obtain third party verification of income, assets, or expenses, when the impact on total tenant payment is minimal.

In these cases, the BHA is **required to document in the family file the reason(s) why third party verification was not available.**

The exception to third party verification can be found at 24 CFR §960.259(c)(1) and §982.516(a)(2).

### **Third party verification requirements 24 CFR §960.259(c)(1) and 24 CFR §982.516(a)(2)**

In accordance with the Public Housing and the HCV programs, respectively, the BHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available:

- Reported family annual income
- The value of assets
- Expenses related to deductions from annual income
- Other factors that affect the determination of adjusted income.

## **Compliance and reduction of the administrative burden of third party verification requirements of family annual income**

BHA can comply with and reduce administrative burden of third party verification requirements for employment, wage, unemployment compensation and social security benefits, and any other information that is verifiable using EIV by all of the following:

- Reviewing the EIV Income Report to confirm/validate tenant-reported income
- Printing and maintaining an EIV Income Report in the tenant file
- Obtaining current acceptable tenant-provided documentation to supplement EIV information
- Using current tenant-provided documentation and/or third party verification to calculate annual income.

**Note:** Social Security benefit information in EIV is updated every three months. If the tenant agrees with the EIV-reported benefit information, BHA does not need to obtain or request a benefit verification letter from the tenant. See PIH Notice 2010-03 for guidance on verifying Social Security benefit income through the EIV system.

The BHA must request written third party verification under the following circumstances:

- When the tenant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b))
- When the BHA requires additional information that is not available in EIV and /or the tenant is unable to provide the BHA with current acceptable tenant-provided documentation.

Examples of additional information include but are not limited to:

- Effective dates of income (i.e. employment, unemployment compensation, or social security benefits)
- For new employment: pay rate, number of hours worked per week, pay frequency, etc.
- Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.)

**Note:** 24 CFR §5.236(a), prohibits BHA from taking adverse action based solely on EIV

information.

**Types of file documentation required to demonstrate BHA compliance with mandated use of EIV as a third party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)).**

For each annual reexamination of family income and composition, the BHA is required to have the following documentation in the tenant file:

- **No Dispute of EIV Information:** EIV Income Report, current acceptable tenant-provided documentation, and *if necessary* (as determined by the BHA), traditional third party verification form(s).
- **Disputed EIV Information:** EIV Income report, current acceptable tenant- provided documentation, and/or *traditional* third party verification form(s) for disputed information.
- **Tenant-reported income not verifiable through EIV system:** Current tenant-provided documents, and *if necessary* (as determined by the BHA), traditional third party verification form(s).

**Tenants That Do Not Provide the BHA with Requested Information**

If the tenant does not provide the requested information, the BHA may mail or fax a third party verification request form to the third party source. The BHA is *required* to request third party verification when the tenant disputes EIV information and the tenant is unable to provide acceptable documentation to support disputed information. However, the BHA shall remind the tenant that s/he is required to supply any information requested by the BHA for use in a regularly scheduled annual or interim reexamination of family income and composition.

The BHA may determine that the tenant is not in compliance with program requirements and terminate tenancy or assistance, or both, if the tenant fails to provide the requested information in a timely manner.

**EIV Requirements for Recertification**

To minimize tenant underreporting of income, the BHA is required to obtain an EIV Income Report for each family any time the PHA conducts an annual reexamination of family income and composition.

In accordance with 24 CFR §5.236(b)(2)(3), BHA is required to compare the information on the EIV report with the family-reported information. If the EIV report reveals an income source that was not reported by the tenant or a substantial difference in the reported income information, the

BHA is required to take the following actions:

- Discuss the income discrepancy with the tenant
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources;
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the BHA is required to request from the third party source, any information necessary to resolve the income discrepancy
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively\*
- Take any other appropriate action as directed by HUD or the BHA's administrative policies.

\* The BHA is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

*Note: A substantial difference is defined as an amount equal to or greater than \$2,400, annually.*

When there is an unsubstantial or no disparity between tenant-reported and EIV-reported income information, the BHA is required to obtain from the tenant, any necessary documentation to complete the income determination process. As noted previously, the BHA may reject any tenant-provided documentation, if the BHA deems the documentation unacceptable. The BHA may reject documentation provided by the tenant for only the following HUD-approved reasons:

- The document is not an original; or
- The original document has been altered, mutilated, or is not legible; or
- The document appears to be a forged document (i.e. does not appear to be authentic).

The BHA will explain to the tenant, the reason(s) the submitted documents are not acceptable and request the tenant to provide additional documentation. If at any time, the tenant is unable to provide acceptable documentation that the BHA deems necessary to complete the income determination process, the BHA is required to submit a traditional third party verification form to the third party source for completion and submission to the BHA.



If the third party source does not respond to the BHA's request for information, the BHA is required to document the tenant file of its attempt to obtain third party verification and that no response to the third party verification request was received.

The BHA should then pursue lower level verifications in accordance with the verification hierarchy.

## **Tenant Actions for BHA Underpayments of Rent**

### BHA Policy

The tenant must be provided an opportunity to contest the BHA's determination of tenant rent underpayment. HUD regulations require the BHA to promptly notify tenants in writing of any adverse findings made on the basis of the information verified through the aforementioned income discrepancy resolution process. The tenant may contest the findings in accordance with the BHA's established grievance procedures, as required by HUD. The BHA may not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

## **Tenant Repayment Agreement and Failure to Report Income**

Tenants are required to reimburse the BHA if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The tenant is required to reimburse the BHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent.

If the tenant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, the BHA **must** terminate the family's tenancy. HUD does **not** authorize any BHA-sponsored amnesty or debt forgiveness programs, therefore, no amnesty or debt forgiveness program will be provided.

All repayment agreements must be in writing, dated, signed by both the tenant and the BHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

- Reference to the paragraphs in the Public Housing lease whereby the tenant is in non-compliance and may be subject to termination of tenancy.
- The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the BHA.
- The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.

- Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy.
- The BHA is required to determine retroactive rent amount as far back as they have documentation of family reported income. For example, if the BHA determines that the family has not reported income for a period of five years and only has documentation for the last three years, the BHA is only able determine retroactive rent for the three years for which documentation is available.

Repayments shall be in accordance with BHA's repayment policies and agreement.

### **C. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

#### **Reasonable Effort and Timing**

Unless third-party verification is not required as described below, HUD requires the BHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification.

#### **BHA Policy**

The BHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The BHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The BHA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, the BHA will request third-party oral verification.

The BHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, BHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the BHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the BHA will wait no more than 5 business days for the information to be provided. If the information

is not provided by the 6<sup>th</sup> business day, the BHA will use any information provided orally in combination with reviewing family-provided documents.

### **When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, the BHA will use the information from documents on a provisional basis. If the BHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the BHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the BHA's interim reexamination policy.

### **When Third-Party Verification is Not Required**

#### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

#### ***Certain Assets and Expenses***

The BHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The BHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

#### **BHA Policy**

The BHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

#### ***Certain Income, Asset and Expense Sources***

The BHA will determine that third-party verification is not required when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, the BHA will rely upon review of documents when the BHA determines that a third party's privacy rules prohibit the source from disclosing information.

#### **BHA Policy**

The BHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, the BHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

**D. REVIEW OF DOCUMENTS**

**Using Review of Documents as Verification**

BHA Policy

If the BHA has determined that third-party verification is not available or not required, the BHA will use documents provided by the family as verification.

The BHA may also review documents when necessary to help clarify information provided by third parties. In such cases the BHA will document in the file how the BHA arrived at a final conclusion about the income or expense to include in its calculations.

**E. SELF-CERTIFICATION**

BHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the BHA.

The BHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the BHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a BHA representative or notary public.

**PART II. VERIFYING FAMILY INFORMATION**

**A. VERIFICATION OF LEGAL IDENTITY**

BHA Policy

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

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
Certificate of birth, naturalization papers	Certificate of birth
Current, valid driver's license or Department of Motor Vehicles identification card	Adoption papers Custody agreement

U.S. passport	
College identification card	

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

**B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 ]**

For every eligible family member, the family must provide documentation of a valid social security number (SSN). A self-certification stating that no SSN has been issued for a person that is not declaring eligibility of that member is acceptable only for those members of a mixed-family that do not declare eligibility. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

BHA Policy

The BHA requires review of the original SS card, however, BHA will also accept the following documents as evidence if the SSN is provided on the document:

Other identification letter that includes the SSN issued by a federal or state agency.

If the family reports an SSN but cannot provide acceptable documentation of the number, the BHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The BHA will require documentation of the SSN within 60 calendar days from the date of the family member’s self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

BHA Policy

The BHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the BHA will grant an additional 60 calendar days to provide documentation.

Social Security Numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. If required by the law enforcement entity for the purpose of conducting criminal background verification, the social security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

### **C. DOCUMENTATION OF AGE**

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

Age must be verified only once during continuously-assisted occupancy.

### **D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household.

#### **BHA Policy**

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

#### **Marriage**

#### **BHA Policy**

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

A marriage certificate generally is required to verify that a couple is married.

#### **Separation or Divorce**

#### **BHA Policy**

Certification by the head of household is normally sufficient verification. If the BHA has reasonable doubts about a separation or divorce, the BHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

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

#### **BHA Policy**

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

## **E. VERIFICATION OF STUDENT STATUS**

### **BHA Policy**

The BHA 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 deduction to enable a family member to further his or her education, or

The family claims an income exclusion because the student is receiving earned income and only the first \$480 is included as income.

## **F. DOCUMENTATION OF DISABILITY**

The BHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The BHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The BHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the BHA receives a verification document that provides such information, the BHA will not place this information in the tenant file. Under no circumstances will the BHA request a participant's medical record(s).

### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions.

### **BHA Policy**

For family members claiming disability who receive disability benefits from the SSA, the BHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system, when it is available. If documentation from HUD's EIV System is not available, the BHA will request a current SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the BHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the BHA.

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

### **BHA Policy**

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. Verification of non-citizens having temporary status will need to be re-verified prior to the expiration date. [24 CFR 5.508(g)(5)]

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The BHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

### **BHA Policy**

Family members who claim U.S. citizenship or national status will be required to provide additional documentation such as a birth certificate.

### **Eligible Immigrants**

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

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

#### **Verification**

For family members age 62 or older who claim to be eligible immigrants, proof of age is required.



For family members under the age of 62 who claim to be eligible immigrants, the BHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS). The BHA will follow all USCIS protocols for verification of eligible immigration status.

### **PART III. VERIFYING INCOME AND ASSETS**

#### **A. EARNED INCOME**

##### BHA Policy

When paystubs or employer print-outs are used to verify earnings, two (2) current paystubs will be required to calculate annual income from earnings. This method will be used regardless of frequency (i.e. weekly, bi-weekly, semi-monthly, monthly). Income will be annualized using these paystubs or employer records. Exceptions to this method will be documented in the tenant file.

Interruption of employment due to temporary leave of absence (i.e. maternity leave, short-term disability): upon verification that earnings have stopped, an interim will be conducted to remove the income. The family may be required to complete a Zero/Extremely Low Income Questionnaire/Certification. The family is required to report any other income received in lieu of earnings. The family will be required to report when the income starts again. At that time an interim will be conducted to add the income back into the family budget.

#### **B. BUSINESS AND SELF-EMPLOYMENT INCOME**

##### BHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

The BHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

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

If a family member has been self-employed less than three (3) months, the BHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three

(3) to twelve (12) months the BHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

#### **Social Security/SSI Benefits**

##### BHA Policy

To verify the SS/SSI benefits of applicants, the BHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the BHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter they will be required to provide it to the BHA.

To verify the SS/SSI benefits of participants, the BHA will obtain information about social security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, the BHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the BHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter they will be required to provide it to the BHA.

### **D. ALIMONY OR CHILD SUPPORT**

##### BHA Policy

The way the BHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order.

If payments are made through a state or local entity, the BHA will request a record of payments for the past 12 months.

Verification of Child Support payments may be obtained electronically from the Child Support enforcement web site. The BHA must have the participant's case number and along with entering the case number the last four digits of the participant's Social Security number must be entered. This is only for court support payments in North Carolina.

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 and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake enforcement action.

## **E. ASSETS AND INCOME FROM ASSETS**

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

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The BHA needs to verify only those certifications that warrant documentation.

#### **BHA Policy**

The BHA will verify the value of assets disposed of only if:

The BHA 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 the BHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The BHA has a reasonable estimate of the value of the asset; therefore, re-verification 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, the BHA will verify the value of this asset.

## **F. NET INCOME FROM RENTAL PROPERTY**

#### **BHA Policy**

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the BHA 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.

## **G. RETIREMENT ACCOUNTS**

### **BHA Policy**

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, the BHA 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, the BHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the BHA 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.

## **H. INCOME FROM EXCLUDED SOURCES**

The BHA must obtain verification for income exclusions only if, without verification, the BHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the BHA will confirm that BHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

### **BHA Policy**

The BHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the BHA will report the amount to be excluded as indicated on documents provided by the family.

## **I. ZERO/EXTREMELY LOW ANNUAL INCOME STATUS**

Families claiming to have no or extremely low annual income will be required to execute verification forms and BHA executes an EIV search to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

## **PART IV. VERIFYING MANDATORY DEDUCTIONS**

### **A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the BHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

The BHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

The BHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

### **B. MEDICAL EXPENSE DEDUCTION**

The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### **Amount of Expense**

##### BHA Policy

The BHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

EIV

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the BHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The BHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

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

In addition, the BHA must verify that:

- The household is eligible for the deduction.

- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The BHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 of this plan.

### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for the BHA's policy on what counts as a medical expense.

### **Expenses Incurred in Past Years**

#### BHA Policy

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

### **C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### **Amount of Expense**

##### *Attendant Care*

#### BHA Policy

The BHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

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

### ***Auxiliary Apparatus***

#### **BHA Policy**

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the BHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described above).
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.
- The expense does not exceed the amount of the earned income of the individual freed for work.

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The BHA will verify that the expense is incurred for a person with disabilities .

### **Family Member(s) Permitted to Work**

The BHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### **BHA Policy**

The BHA will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

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

## **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

### BHA Policy

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

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

## **D. CHILD CARE EXPENSES**

The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the BHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable if seeking employment or furthering education.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The BHA will verify that the child being cared for (including foster children) is under the age of 13.

### **Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

### BHA Policy

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.



## **Pursuing an Eligible Activity**

The BHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### BHA Policy

#### *Information to be Gathered*

The BHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### *Seeking Work*

Whenever possible the BHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the BHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the BHA any reports provided to the other agency.

In the event third-party verification is not available, the BHA will provide the family with a form on which the family member must record job search efforts. The BHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### *Furthering Education*

The BHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

#### *Gainful Employment*

The BHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

## **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### BHA Policy

The BHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The BHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The BHA will verify the child care provider is not a family member residing in the household. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted for seeking employment or furthering education.

#### **BHA Policy**

The actual costs the family incurs will be compared with established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. .

If the family presents a justification for costs that exceed typical costs in the area, the BHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## Chapter 8

### TRANSFER POLICY

#### **INTRODUCTION**

The transferring of families can be a costly procedure, both to the BHA and to the families. However, it is the policy of the BHA to permit a resident to transfer to another unit when it is necessary for a family with a disabled member or when it is necessary to comply with occupancy standards. The transfer policy will be carried out in a manner that does not violate fair housing.

#### **A. GENERAL STATEMENT**

It is the policy of the BHA to require or permit resident transfers for the following reasons:

- To accommodate verified health conditions caused by long-term illness and/or disability;
- To accommodate resident families that are determined to be over- or under-housed by virtue of their family size;
- To abate dangerous or substandard living conditions;
- To allow for modernization of property

The BHA will always consider a request to transfer as a reasonable accommodation for a person with a disability.

#### **B. MANDATORY TRANSFERS**

If there is a required change in the size of unit needed, it will be necessary for the resident to move to a unit of an appropriate size and a new lease will be executed.

If an appropriate unit is not available, the resident will be placed on a transfer list and moved to such unit when it does become available.

The BHA will place all families requiring a mandatory transfer due to occupancy standards on a transfer list.

The family will be offered the next appropriately sized unit that becomes available after other such families already on the transfer list who are in need of the same size unit.

If a family that is required to move refuses the offered unit, the BHA will evaluate the reason for the refusal and determine if it is one of good cause. If the BHA determines that there is no good cause, the BHA will begin lease termination proceedings.

### **C. ELIGIBILITY FOR NON-MANDATORY TRANSFER**

In order to be determined eligible to receive a non-mandatory transfer, residents must submit their request and must be in good standing with the BHA. Families requesting a transfer must pass a transfer inspection done by the Maintenance staff. This inspection will be done to ensure no lease violations exist and the housekeeping requirements are being met as stated in the lease.

The BHA will charge the families for any damages to the previous unit. Move-out charges will be posted to the new unit for payment.

Except in emergency situations, transfers will be avoided when the family is:

- Delinquent in rent or about to be asked to move for reasons other than non-payment of rent.
- Not otherwise in good standing with the BHA.

The BHA will not grant a transfer request solely to accommodate neighbors who "cannot get along", or for damages caused by tenant negligence or for tenants that **intentionally** damage or deface BHA property.

### **D. NON-MANDATORY TRANSFERS**

When a unit becomes available, and after the transfer list has been reviewed for families requiring a mandatory transfer based on occupancy standards, the transfer list will be reviewed for other families desiring a transfer.

If there is a participant family waiting for transfer to an available and appropriately sized unit, the participant family will be offered the unit.

### **E. PRIORITY OF TRANSFERS**

The Transfer List will be maintained in rank order according to the following priorities:

#### **Emergency**

Emergency transfers authorized by the BHA if the resident's unit has been damaged by fire, flood or other causes to such a degree that the unit is not habitable.

#### **Medical hardship and accessibility.**

Medical hardship and accessibility transfers initiated by the BHA or the family.

#### **Modernization**

Transfers initiated by the BHA to allow modernization activities that would render the unit uninhabitable during the construction period.

### **Under-housed**

Transfers initiated by the family or the BHA when a change in family composition or circumstances warrant a larger unit in compliance with BHA occupancy standards.

### **Overhoused**

Transfers initiated by the family or the BHA when a change in family composition or circumstances warrant a smaller unit in compliance with BHA occupancy standards.

## **F. MOVING COSTS**

In the case of involuntary transfers, the BHA will provide personnel and vehicles to assist the family in moving large furniture items. The BHA will pay the cost to have the Town of Beaufort water account transferred to the new unit.

In the case of voluntary transfers, the family will be responsible for moving their belongings and for the costs of transferring the Town of Beaufort water account to the new unit.

## **G. COORDINATION WITH WAITING LIST**

The BHA will strive to maintain a balance between transferring current residents and admitting applicants from the Waiting List. Consideration will be given to the nature of the transfer, the length of the Waiting List, the availability of applicants to occupy units vacated by transferred residents, vacancy levels, and operational capacity.

## **Chapter 9**

### **LEASING**

**[24 CFR 966.4]**

#### **INTRODUCTION**

It is the BHA's policy that all units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations [24 CFR Part 966]. This Chapter describes pre-leasing activities and the BHA's policies pertaining to lease execution, security deposits, other charges, and additions to the lease.

#### **A. LEASE ORIENTATION**

A BHA representative will provide a lease orientation to all adults in the family prior to lease up. The orientation may be conducted with one family or as a group.

The adult members of the family must attend an orientation before taking occupancy of the unit.

#### **Orientation Agenda**

When families attend the lease orientation, they will be provided with information on BHA policies. Topics to be discussed will include, but are not limited to:

- Applicable deposits and other charges
- BHA Grievance Policy
- BHA Rent Collection Policy
- BHA Pet Policy
- BHA One Strike Policy
- BHA Domestic Violence Policy
- Lead Based Paint Disclosures
- Provisions of the Lease
- Family Choice of Rents
- Unit maintenance and calls for service
- Housekeeping policies
- BHA Community Service Policy
- Interim and Annual Reexaminations
- Reporting Changes in Family Composition
- Reporting Changes in Income
- Lease terminations and evictions
- Utility Allowances and Excess Utility Charges

## **B. LEASE REQUIREMENTS**

The initial term of the lease will be for 12 months. The lease will renew automatically except for noncompliance with the community service requirement.

## **C. EXECUTION OF LEASE**

The lease shall be executed by the head of household, spouse, and all other adults and by an authorized representative of the BHA, prior to admission.

An appointment will be scheduled for the parties to execute the lease. One executed copy of the lease will be given to the tenant, and the BHA will retain one in the tenant's file. The lease is incorporated into this policy by reference. The lease document will reflect current BHA policies as well as applicable Federal, State and Local law.

The following provisions govern lease execution and amendments:

A lease is executed at the time of admission for all new tenants.

A new lease is executed at the time of the transfer of a tenant from one BHA unit to another.

If, for any reason, any signer of the lease ceases to be a member of the household, the lease will be amended by drawing a line through the party's name and both parties will be required to initial and date the change.

Lease signers must be persons legally eligible to execute contracts.

The names and relationship of all household members are listed on the lease and only those persons listed on the lease shall be permitted to occupy a dwelling unit.

Households that include a Live-In Attendant will contain file documentation that the Live-In Attendant is not a party to the lease and is not entitled to BHA assistance, with the exception of occupancy guidelines while serving as the attendant for the participant family member.

The BHA may modify its form of lease from time to time, giving tenants an opportunity to comment on proposed changes and advance notice of the implementation of any changes. A tenant's refusal to accept permissible and reasonable lease modifications, or those modifications required by HUD, is grounds for termination of tenancy.

## **D. ADDITIONS TO THE LEASE**

Requests for the addition of a new member of the household must be approved by the BHA, prior to the actual move-in by the proposed new member.

Following receipt of a family's request for approval, the BHA will conduct a pre-admission screening, including the Criminal History Report, of the proposed new member. Only new members approved by the BHA will be added to the household.

## **Factors determining household additions:**

1. Household additions subject to screening:
  - a. Resident plans to marry;
  - b. Resident desires to add a new family member to the lease including persons with a disability or handicap, employ a live-in aide, or take in a foster child(ren) or adult. The PHA reserves the right in making determinations in this paragraph based on extenuating circumstances.
2. Household additions that are not subject to screening:
  - a. Children born to a family member or whom a family member legally adopts or attains court-ordered custody are exempt from the pre-screening process.
3. In such cases where the addition is of a new member who has not been born, married, or legally adopted into the family, and the addition will increase the bedroom size required by the family, according to the BHA occupancy standards, the BHA will not approve the addition.
4. Residents who fail to notify the BHA of additions to the household, or who permit persons to join the household without undergoing screening, are in violation of the lease. Such persons are considered to be unauthorized occupants by the BHA, and the entire household will be subject to eviction [24 CFR 966.4(f)(2 and 3)].
5. Family members who move from the dwelling unit shall be removed from the lease. The tenant must notify the BHA of the move-out within 10 calendar days of its occurrence.

The BHA reserves the right in making determinations under this paragraph to consider medical hardship or other extenuating circumstances.
6. The tenant may not allow visitors to stay overnight more than 14 days in a twelve month period. The BHA must be notified in advance and approve any stays greater than 14 days.
  - a. Visitors who remain beyond this period shall be considered unauthorized members and their presence constitutes a breach of the lease.
  - b. If an individual other than a leaseholder is representing to an outside agency that they are residing in the lessee's unit, the person will be considered an unauthorized member of the household.
7. Roomers and lodgers are not permitted to occupy a dwelling unit, nor are they permitted to move in with any family occupying a dwelling unit.

## **E. LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES**

[24 CFR 8.27(a)(1)(2) and (b)]

Before offering a vacant accessible unit to a non-disabled applicant, the BHA will offer such units:



First, to a current occupant of another unit who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

The BHA will require a non-disabled resident to agree to move to an available non-accessible unit when either a current resident or an applicant needs the features of the unit and there is another unit available for the resident. This requirement will be a provision of the lease agreement.

#### **F. UTILITY SERVICES**

Non-payment of excess utility charge payments to the BHA is a violation of the lease and is grounds for eviction.

#### **G. SECURITY DEPOSITS**

##### **Security Deposit**

The Security Deposit will be the greater of one month's rent or the Flat Rent for the size unit being rented, provided, however, that if the Flat Rent exceeds two months' rent, then the Security Deposit shall be two months' rent.

Under extenuating circumstances, and at the discretion of the Executive Director, the Security Deposit may be paid in monthly installments as follows: One-half (1/2) of the Security Deposit shall be paid on the occupancy date, with the remainder paid in two monthly installments due the two following months after occupancy. Failure of the resident to pay the Security Deposit within the time provided by the BHA shall constitute grounds for termination of the lease.

Security deposits are payable by check or money order only.

All security deposits are held in a separate, FDIC insured bank account.

The BHA will hold the security deposit for the period the tenant occupies the unit.

The BHA will refund the security deposit to any tenant less any amount needed to pay the cost of:

Unpaid Rent;

Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;

Other charges under the Lease.

The BHA will refund the Security Deposit less any amounts owed, within 30 calendar days after move out and tenant's notification of new address.

The BHA will provide the tenant with a written list of any charges against the security deposit.

The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to the BHA. All keys to the unit must be returned to the Property Manager upon vacating the unit.

The BHA will not use the security deposit for payment of rent or other charges while the tenant is living in the unit.

If the tenant transfers to another unit, the BHA will transfer the security deposit to the new unit.

#### **H. RENT PAYMENTS**

Rent is payable by check or money order only.

The BHA considers the rent unpaid when a check is returned as NSF or a check is written on a closed account.

The BHA will assess a return check fee of \$25.00 for NSF or checks written against closed accounts.

#### **I. SCHEDULES OF SPECIAL CHARGES AND PROCEDURES**

Schedules of special charges for services, repairs, utilities and rules and regulations which are required to be incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the project office, and they will be provided to tenants upon request.

#### **Additional Amenity Installation Requests**

Tenants are allowed to have the following list of additional amenities if they first obtain proper authorization from the BHA:

- cable or satellite television
- additional telephone outlets
- clothes dryer

The BHA must be contacted to approve the authorization of the installation amenity request. Only licensed contractors will perform authorized amenity installation requests. BHA assumes no responsibility for damages.

#### **J. MODIFICATIONS TO THE LEASE**

Schedules of special charges and rules and regulations are subject to modification or revision. Residents will be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and they will be given an opportunity to present written comments. Comments will be taken into consideration before any proposed modifications or revisions become effective.

A copy of such notice shall be posted in the BHA office.

After the proposed changes have been incorporated into the lease and approved by the Board, each family will be notified of the effective date of the new lease.

Any modifications of the lease must be accomplished by a written addendum to the lease and signed by both parties at the next interim or annual examination.

#### **K. CANCELLATION OF THE LEASE**

Cancellation of the tenant's lease is to be in accordance with the provisions contained in the lease agreement.

#### **L. INSPECTIONS OF PUBLIC HOUSING UNITS**

##### **Initial Inspections**

The BHA and the family will inspect the premises prior to occupancy of the unit in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the BHA and the tenant, will be kept in the tenant file.

##### **Vacancy Inspections**

BHA staff will perform a move-out inspection when the family vacates the unit, and will encourage the family to participate in the move-out inspection.

The purpose of this inspection is to determine necessary maintenance and whether there are damages that exceed normal wear and tear. The BHA will determine if there are tenant caused damages to the unit. Tenant caused damages may affect part or all of the family's security deposit.

The move-out inspection also assists the BHA in determining the time and extent of the preparation and repairs necessary to make the unit ready for the next tenant.

##### **Quarterly and Annual Inspections**

The BHA will inspect all units quarterly and annually. A forty eight hour notice will be provided.

If a unit fails inspection due to housekeeping or tenant-caused damages, the tenant will be given 24 hours to rectify deficiencies.

All inspections will include a check of all smoke alarms to ensure proper working order.

Inspection reports will indicate whether required corrections are to be charged to the resident or covered by the BHA.

Damages beyond "normal wear and tear" will be billed to the tenant.

Tenants who repeatedly "fail" the inspection or cause excessive damage to the unit will be in violation of their lease.

##### **Special Inspections**

Housing management staff may conduct a special inspection for housekeeping, unit condition, or suspected lease violation.

HUD representatives or local government officials may review BHA operations periodically and as a part of their monitoring may inspect a sampling of the BHA's inventory.

### **Emergency Inspections**

Housing authority staff may initiate an emergency inspection if they believe that an emergency exists in the unit or on BHA property.

### **Emergency Repairs**

The following items may be considered emergency in nature and require immediate (within 24 hours) response, including but not limited to:

Fires—Notify the Fire Department at 911 before calling BHA

Plumbing leaks that can cause flooding or damage to the unit

Breaks in main water lines

Plumbing stoppage affecting all toilets

Backed-up sewage

Electrical failures (affecting more than just a lighting or outlet circuit)

Heating problems in winter based on the current temperature

Refrigerator has completely stopped cooling or freezing

### **After Hours Emergency Repairs**

The BHA considers a work item to be an after hours emergency if the situation constitutes a serious threat to the life, safety or health of residents, or if the situation will cause serious damage to the property structure or systems if not repaired immediately.

Situations meeting the above criteria will be responded to at any hour if they are caused by fire, wind or water. Other emergency repair situations will be addressed within 24 hours.

Residents who experience a maintenance problem after regular working hours should make a careful determination as to whether the situation is truly an emergency before calling. If it is something that can wait until the next regular working day, then they should do so. A service charge of \$50 will be made for any after hours calls where the resident has misrepresented the nature of the emergency situation.

After hours requests for assistance due to a resident lock out will be responded to. There will be a \$50 charge for such responses.

## **Entry of Premises Notices**

The BHA will give prior written notice for non-emergency inspections. Non-emergency entries to the unit will be made during reasonable hours of the day.

The BHA will provide the family with 48 hour notice prior to entering the unit for non-emergency reasons.

If no person is at home, the inspector will enter the unit and conduct the inspection.

For entry to a unit other than those that have been scheduled, a notice will be left in the unit explaining the reason for the entry for BHA staff.

Reasons the BHA will enter the unit are:

Inspections and maintenance

To make improvements and repairs

In cases of emergency

Repairs requested by the family will not require prior notice to the family. Tenants are notified in the lease that tenant-requested repairs presume permission for the BHA to enter.

## **Non-Inspection Emergency Entry**

The BHA staff will allow access to the unit to proper authorities when issues of health or safety of the tenant are concerned.

## **Family Responsibility to Allow Inspection**

The BHA must be allowed to inspect the unit at reasonable times with reasonable notice. 48 hour written notice will be considered reasonable in all cases.

The BHA will reschedule the inspection for verifiable medical reason that has hindered the inspection. The BHA may request verification.

If the tenant refuses to allow the inspection, the resident will be in violation of the lease.

## **Tenant Damages**

Repeated failed inspections or damages to the unit beyond normal wear and tear will constitute serious or repeated lease violations.

"Beyond normal wear and tear" is defined as items that could be charged against the tenant's security deposit under state law or court practice.

## **M. TRESPASS POLICY**

It is the policy of the BHA that unauthorized persons may not congregate on, enter on, or remain on BHA premises without the consent of the BHA. The BHA may ban any person from all premises maintained by the BHA for any of the criteria that would render them ineligible for admission or continued occupancy, or for other valid reasons as identified by residents of the property or BHA management.

Prosecution for trespassing will be sought should a banned person return to the premises after being prohibited from doing so.

A complete list of persons banned from BHA premises shall be maintained by the BHA and shared with local law enforcement agencies.

## Chapter 10

### REEXAMINATIONS

[24 CFR 5.613, 24 CFR 5.61524 CFR Part 960 Subpart C]

#### **INTRODUCTION**

This Chapter defines the BHA's policy for conducting annual reexaminations. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### **A. ELIGIBILITY FOR CONTINUED OCCUPANCY**

Residents who meet the following criteria will be eligible for continued occupancy:

Qualify as a family as defined in this policy;

Are in full compliance with the obligations and responsibilities described in the dwelling lease and BHA policies;

#### **B. ANNUAL REEXAMINATION**

The terms annual recertification and annual reexamination are synonymous.

In order to be recertified, families are required to provide current and accurate information on income, assets, allowances and deductions, and family composition.

Families who choose flat rent are required to be re-certified at least every 3 years. The BHA will re-evaluate income and family composition at least annually on these families.

For families who move in on the first of the month, the annual recertifications will be effective within 12 months of the anniversary of the move-in date. (Example: If family moves in August 1, the annual recertification will be conducted to be effective on August 1, the following year.)

For families who move in during the month, the annual recertifications will be effective no later than the first of the month in which the family moved in, the following year. (Example: If family moves in August 15, the effective date of the next annual recertification is August 1.)

#### **Reexamination Notice to the Family**

All families will be notified of their obligation to recertify by first class mail. The notification shall be sent at least 45 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the BHA will provide the notice in an accessible format. The BHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

### **Persons with Disabilities**

Persons with disabilities, who are unable to come to the BHA's office will be granted an accommodation of conducting the recertification interview at the person's home upon verification that the accommodation requested meets the need presented by the disability.

### **Requirements to Attend**

All adult family members will be required to attend the recertification interview.

### **Failure to Respond to Notification to Recertify**

The BHA will send written notification to the family to explain which family members are required to attend the recertification interview and the date and time. The family may call to request another appointment date up to 2 days prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the BHA, the BHA will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the BHA will terminate tenancy for the family.

Exceptions to these policies may be made the Executive Director if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.

### **Verification of Information**

All information which affects the family's continued eligibility for the program, and the family's Total Tenant Payment (TTP) will be verified in accordance with the verification procedures and guidelines described in this Policy. All verifications will be placed in the file which has been established for the family.

When the information has been verified, it will be analyzed to determine:

the continued eligibility of the resident as a family or as the remaining member of a family;

the unit size required by the family;

the amount of rent the family should pay.

### **Tenant Rent Increases**

If tenant rent increases a thirty-day notice will be provided to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date (because of a delay that is not the tenant's fault), the tenant rent increase will be effective on the first of the second month following the thirty day notice.



If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

### **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date and a 30 day notice will be provided to the family prior to this date.

If the family causes a delay so that the processing of the reexamination is not completed by the anniversary date, the rent change will be effective on the first day of the month following completion of the reexamination processing by the BHA.

If tenant rent decreases and the change occurred within a month prior to the recertification appointment, but the family did not report the change as an interim adjustment, the decrease will be effective on the recertification anniversary date.

### **C. REPORTING INTERIM CHANGES**

Families must report all changes in household composition and income to the BHA between annual reexaminations within 10 days of the change. This includes additions due to birth, adoption and court-awarded custody. The family must obtain BHA approval prior to all other additions to the household.

When there is a change in head of household or a new adult family member is added, the BHA eligibility screening process will always apply. BHA staff will implement an interim reexamination, unless the change would be effective on the re-examination date. In this case the annual re-examination rules would apply.

The annual reexamination date will not change as a result of this action.

### **Interim Reexamination Policy**

Families must report all income and family composition changes within 10 days of the change.

### **Increases in Income to be Reported**

Families must report all income and family composition changes within 10 days of the change.

### **Increases In Income and Rent Adjustments**

The BHA will process rent adjustments for all increases in income which are reported between regularly scheduled recertifications.

Rent increases (except those due to misrepresentation or failure to timely report) require 30 days notice.

## **Decreases in Income and Rent Adjustments**

Residents should report a decrease in income and other changes, such as an increase in allowances or deductions that would reduce the amount of the total tenant payment.

The BHA will process rent adjustments whenever there is a decrease in income.

### **D. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The BHA 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.

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; or

a situation where the family has complied with welfare program requirements but cannot or has not obtained employment, such as:

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.

### **Definition of Covered Family:**

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

### **Definition of "Imputed Welfare Income":**

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

The amount of imputed welfare income is determined by the BHA, based on written information supplied to the BHA 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 annual 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 resident of conventional housing when the welfare sanction began, imputed welfare income will not be included in annual income.

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

The BHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

The BHA will rely on the welfare agency's written notice to the BHA regarding welfare sanctions.

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

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

An explanation for the BHA's determination of the amount of imputed welfare income.

A statement that the tenant may request a grievance hearing.

A statement that the information received from the welfare agency cannot be disputed at the grievance hearing, and the issue to be examined at the grievance hearing will be the BHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

If the tenant requests a grievance hearing, the tenant is not required to pay an escrow deposit pursuant to 966.55(e) for the portion of tenant rent attributable to the imputed welfare income.

### **BHA Errors**

If the BHA makes a calculation error at admission to the program or at an annual or interim reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

## **E. TIMELY REPORTING OF CHANGES IN INCOME**

### **Standard for Timely Reporting of Changes**

The BHA requires that families report interim changes to the BHA within 10 days of when the change occurs. Any information, document or signature needed from the family that is needed to verify the change must be provided within 10 days of the change.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation, (in the time period requested by the BHA), it will be considered untimely reporting.

### **Procedures When the Change is Reported in a Timely Manner**

The BHA will notify the family of any changes in Tenant Rent to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty day notice.

Decreases in the Tenant Rent are effective the first of the month following the month in which the change is reported.

### **Procedures when the Change is not Reported by the Tenant in a Timely Manner**

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

**Increase in Tenant Rent** will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any underpaid rent, and may be required to sign a repayment agreement.

**Decrease in Tenant Rent** will be effective on the first of the month following completion of processing by the BHA and not retroactively.

### **Procedures when the Change is not Processed by BHA in a Timely Manner**

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by BHA in a timely manner.

Therefore, an increase will be effective after the required thirty day notice prior to the first of the month after completion of processing by BHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the overpayment.

**F. REPORTING OF CHANGES IN FAMILY COMPOSITION**

The members of the family residing in the unit must be approved by the BHA. The family must inform the BHA and request approval of additional family members other than additions due to birth, adoption and court-awarded custody before the new member occupies the unit.

All changes in family composition must be reported within 10 days of the occurrence.

## Chapter 11

### LEASE TERMINATIONS

[24 CFR 966.4]

#### **INTRODUCTION**

The BHA may terminate tenancy for a family because of the family's action or failure to act in accordance with HUD regulations [24 CFR 966.4 (1)(2)], BHA policies, and the terms of the lease. This Chapter describes the BHA's policies for notification of lease termination and provisions of the lease.

#### **A. TERMINATION BY BHA**

Termination of tenancy will be in accordance with the BHA's lease.

The lease is automatically renewable, EXCEPT the lease shall have a 12-month term for community service and will not be renewed in the case of noncompliance with the community service requirements.

The lease may be terminated by the BHA at any time by giving written notice for serious or repeated violation of material terms of the lease.

The lease may be terminated by the BHA after three summons within a twelve month period.

#### **B. NOTIFICATION REQUIREMENTS**

The BHA's written Notice of Lease Termination will state the reason for the proposed termination, the date that the termination will take place, and it will offer the resident all of the rights and protections afforded by HUD regulations and BHA policies.

Notices of lease termination shall be in writing and delivered to tenant or adult member of the household, either in person or by certified mail.

#### **Disclosure of Criminal Records to Family**

Before the BHA terminates the lease based on a criminal arrest or conviction record, the tenant and subject of record will be provided with a copy of the criminal record. Tenants may dispute the accuracy and relevance of that record at the grievance hearing or court hearing.

The BHA at its discretion may permit a family to continue their occupancy provided that the family member(s) determined to have engaged in the above listed activities will not reside in the unit, are removed from the lease and banned from BHA properties. If the violating member is a minor, the BHA may consider the individual circumstances with the advice of the Juvenile Court officials.

**C. RECORD KEEPING**

A written record of every termination and/or eviction shall be maintained by the BHA for 3 years, and shall contain the following information:

Name of resident, number and identification of unit occupied;

Date of the Notice of Lease Termination, specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the Notices;

Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.