



McHenry County Housing Authority

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11/16/2020

Executive Directive from Kim Ulbrich, Executive Director MCHA Regarding Emergency Implementation of HUD Approved Waivers to the Housing Choice Voucher and Project Based Voucher Programs

Due to the national pandemic of Covid-19, on 7/02/2020, the Department of Housing and Urban Development issued Notice PIH 2020-13 (HA), REV-1: **COVID-19 Statutory and Regulatory Waivers and Alternative Requirements for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, Revision 1**. This notice gave Public Housing Authorities (PHAs) the right to implement the waivers found in Notice PIH 2020-13 (HA), REV-1 effective 7/02/2020 in order to continue assisting applicants and clients to the best of the PHA's ability during the COVID-19 pandemic. Effective 11/16/2020, MCHA implemented the following HUD Waivers for the Housing Choice Voucher Program and the Project Based Voucher Program:

1) PH and HCV-3: Family Income and Composition: Annual Examination; Income Verification requirements

Regulatory Authority: 24 CFR §5.233(a)(2) - HCV and Public Housing

Regulatory Authority: 24 CFR §960.259(c) – Public Housing

Regulatory Authority: 24 CFR §982.516(a) - HCV

Sub-regulatory Guidance: PIH Notice 2018-18

Description: PHAs are required to use the Enterprise Income Verification (EIV) System for verification of family income at the annual examination. 24 CFR §960.259(c) and 24 CFR §982.516(a) require PHAs to obtain third-party verification, or document in the tenant file why third-party verification was not available, during mandatory reexaminations or recertifications of family composition and income. 24 CFR §5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD. PIH Notice 2018-18 describes the required verification hierarchy process PHAs must follow. HUD understands that documentation may be difficult to obtain as a result of the COVID-19 pandemic. PHAs are also facing challenges with securely accessing HUD systems while many if not all staff are working remotely.

To address these challenges, HUD is waiving the requirements to use the income hierarchy described by PIH Notice 2018-18 and will allow PHAs to forgo third-party income verification requirements for annual reexaminations, including the use of EIV, if the PHA wishes to conduct the annual recertification rather than delaying the family's annual recertification (as permitted under PH and HCV-2 above).

During the allowable period of availability, PHAs may consider self-certification as the



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highest form of income verification to process annual reexaminations. This may occur over the telephone (but must be documented by PHA staff with a contemporaneous written record), through an email or postal mail with a self-certification form by the tenant, or through other electronic communications. PHAs are encouraged to incorporate procedures to remind families of the obligation to provide true and complete information.

PHAs are further reminded that there is no HUD requirement that income and family composition examinations and recertifications must be conducted in-person unless determined necessary as a reasonable accommodation for a person with a disability. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct annual examinations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. For example, if a tenant self-certified that the tenant lost their job, but later the EIV Income Validation Tool (IVT) shows the tenant's employment continued, the PHA must take enforcement action in accordance with their policies and procedures.

Period of Availability: The period of availability to conduct annual reexaminations using these modified verification requirements ends on December 31, 2020.

2) PH and HCV-4: Family Income and Composition: Interim Examinations

Statutory Authority: Section 3(a)(1) of the USHA of 1937

Regulatory Authority: 24 CFR § 5.233(a)(2) - HCV and Public Housing

Regulatory Authority: 24 CFR § 982.516(c)(2) - HCV

Regulatory Authority: 24 CFR §§ 960.257(a), (b), and (d); 960.959(c) - Public Housing

Sub-regulatory Guidance: PIH Notice 2018-18

Description: For the HCV and Public Housing programs, PHAs are required to adopt policies (in their Administrative Plans and Admissions and Continued Occupancy Plans (ACOPs), respectively) prescribing when and under what conditions the family must report a change in family income or composition. However, at any time that a family requests an interim determination of family income or composition because of any changes since the last determination, the PHA must make the interim determination within a reasonable time after the family's request. In most cases, the reason a family requests an interim determination is due to a loss in income or a change in family composition.

PHAs are required to use EIV for verification of family income at interim reexamination. 24 CFR §960.259(c) and 24 CFR §982.516(a) require PHAs to obtain third-party verification, or document in the tenant file why third-party verification was not available, during mandatory reexaminations or recertifications of family composition and income. 24 CFR § 5.233(a)(2) requires PHAs to use EIV as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with §5.236 and administrative guidance issued by HUD. PIH Notice 2018-18 further describes the required verification hierarchy process PHAs must follow.

To assist PHAs that may be prioritizing the processing of interim reexaminations due to decreases in family income and mitigate the challenges of transferring documentation during periods of shelter-in-place/stay-at-home efforts in response to the COVID-19 pandemic, HUD is waiving the requirements to use the income verification hierarchy as described by PIH Notice 2018-18. HUD will allow PHAs to forgo third-party income verification requirements for interim reexaminations, including the required use of EIV. During the allowable period of eligibility, PHAs may consider self-certification as the highest form of

income verification to process interim reexaminations. This may occur over the telephone (with a contemporaneous written record by the PHA staff person), through an email with a self-certification form by the family, or through other electronic communications.

As noted in the previous waiver description, there is no HUD requirement that income and family composition examinations and recertifications must be conducted in-person unless it may be necessary as a reasonable accommodation for a person with a disability. In such cases, PHAs may look to applicable public health guidelines and any state or local ordinance on how to maintain appropriate health precautions (e.g., social distancing).

PHAs that conduct interim reexaminations under this waiver/alternative requirement will be responsible for addressing any material discrepancies that may arise later. For example, if a tenant self-certified that the tenant lost their job, but later the EIV IVT Report shows the tenant's employment continued, the PHA must take enforcement action that is consistent with its policies and procedures.

PHAs may wish to review and adjust their interim reexamination policies (e.g., revising the PHA requirements when families must report increases in income between annual reexaminations or revising the policy regarding how to determine the effective date of an interim examination). PHAs should see HCV-1 and PH-4 for information on how these types of changes can be expedited.

Period of Availability: The period of availability ends on December 31, 2020.

3) PH and HCV-5: Enterprise Income Verification (EIV) Monitoring

Regulatory Authority: 24 CFR § 5.233 – Public Housing and HCV

Sub-regulatory Guidance: PIH Notice 2018-18

Description: PIH Notice 2018-18 specifies the required monitoring of EIV reports. For example, PHAs are required to monitor the Deceased Tenants Report, the Identity Verification Report, the Immigration Report, the IVT Report, and the Multiple Subsidy Report and the New Hires Report on a monthly basis. Recognizing the challenges PHAs are facing with many if not all staff working remotely, HUD is waiving the mandatory EIV monitoring requirements. PHAs are reminded that EIV data is overwritten; monthly or quarterly reports must be downloaded to preserve the data for a particular month or quarter.

Period of Availability: The period of availability ends on December 31, 2020.

HOUSING CHOICE VOUCHER PROGRAM WAIVERS – HOUSING QUALITY STANDARDS (HQS) INSPECTIONS

Introduction: HUD recognizes the unprecedented challenge the COVID-19 pandemic poses to PHAs in carrying out the most essential of their HCV program administrative responsibilities – ensuring that assisted families are living in decent, safe, and sanitary housing. HQS inspections protect the health and safety of HCV families. However, conducting physical inspections of units in many communities during the COVID-19 pandemic poses its own health risks for families, participating owners, and PHA personnel, and may run counter to public health orders, directives, or recommendations such as shelter-in-place or other social distancing practices designed to contain and reduce exposure to COVID-19. In order to provide PHAs with the necessary flexibilities to continue to allow families to lease units and to postpone normally required HQS inspections for units under HAP contract, HUD is authorizing the use of the HQS-related waivers and alternative requirements listed in this section. PHAs are in the best position to determine which (if any) of these waivers should be applied to their HCV programs based on the needs and current

conditions in their local communities.

PHAs that delay inspections under these waivers must inspect the units as soon as reasonably possible when it is again safe to do so, but must complete all delayed unit inspections no later than the date specified in this Notice (or subsequent extensions provided by HUD). HUD has established relatively short periods of availability for these HQS waivers given the health and safety nature of these requirements. However, HUD will consider extending these HQS waivers and alternative requirements if HUD determines an extension is necessary.

Any PHA that applies any of these waivers to its HCV program retains the right to conduct an HQS inspection on any assisted unit at any time. The PHA must grant the reasonable accommodation requests of tenants with disabilities related to HQS inspections. For example, a tenant with a respiratory disability may ask that an HQS inspection be delayed in light of COVID-19 or that the inspectors wear masks and gloves and maintain a six foot distance when entering their unit. Likewise, the PHA may always choose to conduct an initial inspection on a unit a family wishes to lease if such an inspection is determined to be warranted by the PHA, regardless of whether the PHA chooses to apply the initial HQS inspection waivers to its HCV program. Crucially, use of any of these waivers by the PHA does not relieve owners of their responsibility to maintain the unit in accordance with HQS as required in the HAP contract, nor does it in any way restrict the PHA from taking action to enforce the owner's obligations. Furthermore, use of any of these waivers by the PHA does not create any right in any third party (such as with the assisted family) to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS (see § 982.407).

1) HQS-6: HQS Interim Inspections

Statutory Authority: Section 8(o)(8)(F) of the USHA of 1937

Regulatory Authority: 24 CFR §§ 982.405(g), 983.103(e)

Description: The statute requires that upon notification to the PHA by a family or government official that the assisted unit does not comply with the HQS, the PHA must inspect the unit within 24 hours of when the PHA received the notification if the condition is life-threatening. 24 CFR 982.405(g) provides that if the reported condition is not life threatening, the PHA must inspect the unit within 15 days. The regulation further provides that in the event of extraordinary circumstances HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that the owner must either correct the life-threatening deficiency within 24 hours of the PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist. In the case of a reported non-life-threatening deficiency, the PHA must notify the owner of the reported deficiency within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of the PHA notification or any approved PHA extension. The PHA may add other requirements or conditions in addition to the owner's documentation but is not required to do so.

As is the case under the current HCV program requirements, the PHA is not required to conduct an on-site inspection to verify the repairs have been made but may rely on alternative verification methods (e.g., photos submitted by the owner, tenant certification,

etc.).

This waiver may also be applied to PHA-owned units if the independent entity is unable to perform the inspection.

Period of Availability: The period of availability ends on December 31, 2020. After December 31, 2020, the PHA must conduct the HQS inspection in accordance with the applicable time periods upon notification by a family or government official that the assisted unit does not comply with the HQS.

2) HQS-9: HQS Quality Control Inspections

Regulatory Authority: 24 CFR § 982.405(b), 983.103(e)(3)

Description: The regulations require PHAs to conduct supervisory quality control inspections of a sampling of units under contract. HUD is waiving this regulatory requirement.

Period of Availability: The period of applicability ends on December 31, 2020.

3) HQS-10: Housing quality standards; Space and Security

Regulatory Authority: § 982.401(d)

Description: The regulation establishes a minimum standard for adequate space for both an HCV- and PBV-assisted family. Specifically, it requires that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons. HUD is waiving this requirement for PHAs where the PHA wishes to assist a current participant that needs to add a member or members to the assisted household as a result of the COVID-19 pandemic, and the additional family members would result in the unit not meeting the space and security standards. **This provision does not apply to an initial or new lease. A participant must not enter into a new lease for a unit that does not comply with the space and security standards.**

Period of Availability: For any family occupying a unit that does not meet the space and security requirements pursuant to this waiver, the waiver will be in effect for the duration of the current lease term or one year from the date of this Notice, whichever period of time is longer.

HOUSING CHOICE VOUCHER PROGRAM WAIVERS – GENERAL

1) HCV-1: Administrative plan

Regulatory Authority: 24 CFR § 982.54 (a)

Description: The regulation requires that any revisions of the PHA's administrative plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials. Recognizing the likely foreseeable difficulties in complying with this requirement in light of the COVID-19 pandemic, HUD is waiving the requirement to allow the PHA administrative plan to be revised on a temporary basis without Board approval through September 30, 2020. Any informally adopted revisions under this waiver authority must be formally adopted no later than December 31, 2020.

Period of Availability: The period of availability to informally adopt changes to the PHA administrative plan ends on September 30, 2020; the PHA must formally adopt such revisions no later than December 31, 2020.

2) HCV-2: Information When Family is Selected - PHA Oral Briefing

Regulatory Authority: 24 CFR § 982.301(a)(1), § 983.252(a)

Description: The regulation requires when the PHA selects a family to participate in either the HCV or PBV program, the PHA must give the family an oral briefing. HUD is waiving this requirement and as an alternative requirement allowing the PHA to conduct the briefing by other means such as a webcast, video call, or expanded information packet. Section 504 and the ADA require PHAs to ensure effective communication with applicants, participants and members of the public in all communications and notices. The PHA must ensure that the method of communication for the briefing effectively communicates with, and allows for equal participation of, each family member, including those with vision, hearing, and other communication-related disabilities, and ensures meaningful access for persons with limited English proficiency.

Period of Availability: The period of availability ends on December 31, 2020.

3) HCV-3: Term of Voucher – Extensions of Term

Regulatory Authority: 24 CFR § 982.303(b)(1)

Description: The regulation provides that at its discretion, the PHA may grant a family one or more extensions of the initial voucher term in accordance with the PHA policy as described in the PHA administrative plan. HUD is waiving the requirement that the extension(s) must be accordance with the PHA's administrative plan in order to allow the PHA to provide extensions even though it has been unable to formally amend its policy in the administrative plan.

Period of Availability: The period of availability ends on December 31, 2020.

4) HCV-4: PHA Approval of Assisted Tenancy – When HAP Contract is Executed

Regulatory Authority: 24 CFR § 982.305(c)

Description: The PHA may not make any housing assistance payments to the owner until the HAP contract is executed. The regulation provides that PHA must use best efforts to execute the HAP contract before the beginning of the lease term and that the HAP contract must be executed no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the PHA may not pay any housing assistance payments to the owner. HUD is waiving the regulatory requirement to allow PHAs to execute the HAP contract after the 60-day deadline has passed and make housing assistance payments back to the beginning of the lease term. However, the PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term.

Period of Availability: The period of availability to execute the HAP contract after the normally 60-day period from the beginning of the lease term ends on December 31, 2020.

5) HCV-5: Absence from Unit

Regulatory Authority: 24 CFR § 982.312

Description: The regulation requires that a family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. HUD is waiving this regulatory requirement to allow the PHA at its discretion to continue housing assistance payments and not terminate the HAP contract due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members).

Period of Availability: The period of availability for the PHA to choose to continue making HAP payments despite the family's absence of more than 180 consecutive days ends on December 31, 2020. The PHA may not make payments beyond December 31, 2020, and the

HAP contract will terminate on that date if the family is still absent from the unit.

6) HCV-6: Automatic Termination of HAP contract

Regulatory Authority: 24 CFR § 982.455

Description: When an HCV family's income increases to the extent that the housing assistance payment is reduced to \$0, PHAs are required to terminate HAP contracts 180 days after the last housing assistance payment to the owner. In recognition that the COVID-19 pandemic is creating economic and employment instability for many families, as well as situations where families may on a temporary basis be adding members whose additional income may result in a \$0 HAP subsidy calculation, HUD is waiving this requirement. As an alternative requirement, the PHA, upon written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2020.

Period of Availability: The period of availability for the extension ends December 31, 2020. The PHA may not extend the HAP contract beyond December 31, 2020.

7) HCV-14: Mandatory Removal of Unit from PBV HAP Contract

Regulatory Authority: 24 C.F.R. §983.211(a); §983.258

Description: Under the PBV program, a PHA is required to remove a unit from a PBV HAP contract after 180 days of zero housing assistance payments to the unit owner on behalf of the family residing in the unit. This situation arises when the family increases its income to such an extent that it no longer requires housing assistance. In recognition that the COVID-19 pandemic is creating uncertainty for owners and families, HUD is waiving this requirement. As an alternative requirement, HUD is authorizing a PHA at its discretion to keep such units under contract for a period of time that exceeds 180 days but does not extend beyond December 31, 2020. Similarly, with respect to 24 C.F.R §983.258, HUD is providing that a PHA that adopts the alternative requirement may resume housing assistance payments on behalf of a family residing in such a unit should the family's income change at any point during the period of time covered by the extension.

Period of Availability: The period of availability for the extension ends on December 31, 2020.

PHAS, SEMAP, and Uniform Financial Reporting Standards

1) SEMAP

Regulatory Authority: 24 CFR Part 985


Description: Part 985 sets out the requirements by which Section 8 tenant-based assistance programs are assessed. For PHAs that have a SEMAP score pending as of the date of this notice, and for any PHA with a fiscal year ending on or before December 31, 2020, HUD will not issue a new SEMAP score unless the PHA requests a that new SEMAP score be issued. HUD will instead carry forward the most recent SEMAP score on record.

Period of Availability: HUD will resume issuing new SEMAP scores beginning with PHAs with fiscal year end dates of March 31, 2021.


These waivers represent a significant change to the McHenry County Housing Authority's Administrative Plan. These changes are approved and implemented effective 11/16/2020 and

will be posted online at www.mchenrycountyhousing.com as an addendum to the Administrative Plan and adopted by MCHA's Board of Commissioners no later than December 31, 2020.

By Order of Kim Ulbrich, Executive Director



Signature



Date