



McHenry County Housing Authority

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POLICIES RELATED TO PEOPLE WITH DISABILITIES

1. Definition of Disability

MCHA utilizes two different definitions of disability: there is a HUD definition that is used for income rent calculations and eligibility determinations as well as a broader Americans with Disabilities Act (ADA)/Fair Housing Act (FHA) definition that is used for reasonable accommodation purposes.

a) HUD Definition of Disability: The person meets the Social Security Administration definition of a person with disabilities as defined in 42 U.S.C. 423 or the person has a physical, mental, or emotional impairment that: i) Is expected to be of long-continued and indefinite duration; ii) Substantially impedes their ability to live independently; and iii) Is of such a nature that the ability to live independently could be improved by more suitable living conditions.

b) ADA/FHA Definition of Disability (24 CFR Parts 8.3 and 100.201): In order to be considered disabled under this provision, the person must: i) Have a physical, mental or emotional impairment that substantially limits one or more of the person's major life activities; ii) Have a record of such an impairment; or iii) Be regarded as having such an impairment.

2. Overview

MCHA must not discriminate against persons with disabilities. In order to ensure that equal treatment is afforded to those with disabilities, MCHA provides equal access to its programs and services. It also provides the opportunity for applicants and residents to request reasonable accommodations at any time, from application through termination, to those with qualified disabilities. A reasonable accommodation is a modification or change MCHA can make to its policies or procedures that will assist an otherwise qualified applicant or participant with a disability to take full advantage of and use MCHA programs, including those that are operated by other agencies in MCHA-owned public space. [24 CFR 8.20]

Although applicants and residents with disabilities reserve the right to request an accommodation at any time, the MCHA shall ask all applicants and participants in writing if they require any type of accommodation on the intake application, re-examination documents and notices of adverse action by MCHA.

The types of reasonable accommodations the MCHA can provide include changes, exceptions or adjustments to a rule, policy, practice or service. Examples include, but are not limited to:

- Permitting applications and re-examinations to be completed by mail;
- Providing, upon request, alternative formats for persons with visual or hearing impairments, such as large print documents and sign language interpretation;
- Approving the need for a live-in aide;



- Extending the time necessary to acquire documents and otherwise participate in the regular re-examination process;
- Using higher payment standards if the MCHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit;
- Providing time (voucher) extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit; and
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with MCHA staff.

Federal regulations stipulate that requests for accommodations are reasonable unless they pose an “undue financial or administrative burden” to MCHA or will result in a “fundamental alteration” in the nature of the housing program.

HUD issued memorandums entitled “Medical Use of Marijuana in Public Housing” (September 24, 1999) and “Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs” (February 10, 2011) that mandated that all public housing authorities in states where medical marijuana is legalized adopt a policy prohibiting the use and possession of medical marijuana in public housing programs. As such, MCHA will not permit the use of medical marijuana as a reasonable accommodation.

3. Request for a Reasonable Accommodation

The family must explain what type of accommodation is necessary for the person with the disability to fully access MCHA’s programs and services. The requesting family must explain the relationship between the requested accommodation and the disability. A “nexus” or relationship between the requested accommodation and the individual’s disability must be established in order for MCHA to honor the accommodation.

The Reasonable Accommodation Request forms are available at MCHA offices as well as on the MCHA’s website at <http://www.mchenrycountyhousing.org>. If the individual with a disability is unable to submit their request in writing, MCHA will assist the individual in putting their request in written form. Participants should contact MCHA and their owner or property manager about their reasonable accommodation needs.

4. Approval/Denial of a Requested Accommodation

In order to provide reasonable accommodations to qualified families with disabilities, MCHA must verify that the person making the request (or the person on whose behalf the request is being made) meets the definition of a person with a disability and the individual requires the requested accommodation because of the limitations caused by the disability. If the disability is obvious and the nexus is clear, MCHA will not seek additional verification. Decisions to approve or deny requests for reasonable accommodations will be made on a case-by-case basis. Factors taken into account include the cost of the requested accommodation, the financial resources of MCHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family’s disability-related needs. The MCHA will approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability;
- There is a disability-related need for the accommodation; and

- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the MCHA, or fundamentally alter the nature of the MCHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

At MCHA's discretion, before making a determination on a reasonable accommodation request, the MCHA may discuss and negotiate with the family, request more information from the family or require the family to sign a consent form allowing the MCHA to further inquire about the need for the requested accommodation with the family's preferred knowledgeable professional. Where it is unclear whether there is a disability-related need for the accommodation, the MCHA will notify the family as to what additional information is needed, will allow a reasonable timeframe for submission of information, and will make a timely decision on the matter based on the information provided. A decision on the reasonable accommodation request will be made within 30 calendar days. If the applicant or participant disagrees with the determination, the applicant may request an informal review or the participant may request an informal hearing.

5. Termination of Assistance

A MCHA decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552(2)(iv)]. When applicants with disabilities are denied assistance, the notice of denial will inform them of MCHA's informal review process and their right to request a hearing. In addition, the notice will inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

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

