

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families receive assistance from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

HACSM Policy

The HACSM administers the following types of targeted funding:

Moving to Work Program

(Others may be added based on specific awards by HUD)

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

PHAs are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

HACSM Policy

The HACSM will assign preference to the following:

- Families who live, work or are hired to work in San Mateo County;
- Families of federally declared disaster areas who are public housing residents or Section 8 participants;
- Families who are displaced by development of affordable housing in unincorporated county areas along the transportation corridor.
- Moving To Work participants who applied and qualified for hardship exemptions

All preferences will be weighted equally.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

HACSM Policy

The HACSM will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

Order of Selection

The PHA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list PHAs are required to use targeted funding to assist only those families who meet the specified criteria, and PHAs are not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

HACSM Policy

The HACSM system of preferences may select families either according to the date and time of application or by a random selection process. The HACSM will predetermine the total number of applicants it needs to select in order to maintain a three to five-year wait list.

The HACSM will select families from the local preferences or targeted funding for which they qualify. Within each targeted funding or preference category, families will be selected from the waiting list based on a first-come, first-served basis according to the date and time their complete application is received by the HACSM or in numerical order based on the numbers assigned to each application by lottery at the time the applications were placed on the waiting list, depending on the methodology used at the time the family applied.

The HACSM will maintain documentation as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HACSM does not have to ask higher placed families each time targeted selections are made.

Selection Of Project-Based Certificate Program Participants

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBC program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. The HACSM will determine an applicant family's eligibility for the PBC program in accordance with the policies in Chapter 3.

HACSM will maintain a separate waiting list for the PBC program. Applicants who will occupy units with PBC assistance must be selected from the HACSM's waiting list. The HACSM uses the same selection preferences and order of selection that are used for the tenant-based voucher program.

The HACSM will not conduct screening to determine a PBC applicant family's suitability for tenancy. The HACSM will inform owners of their responsibility to screen prospective tenants.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family.

HACSM Policy

The HACSM will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;

- Who is required to attend the interview;

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation;

- Other documents and information that should be brought to the interview.

If a notification letter is returned to the HACSM with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record.

If a family is removed from the waiting list for failure to respond to an interview, the Housing Programs Supervisor may reinstate the family if s/he determines the lack of response was due to HACSM error, or to circumstances beyond the family's control.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

HACSM Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and spouse/co-head are both required to attend the interview.

All family members who are 18 years and older are required to attend the interview and sign all required housing documents.

Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship.

8.I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life threatening conditions within 24 hours of PHA notification.

HACSM Policy

The following are considered life threatening conditions:

- A condition that seriously jeopardizes the security of the unit
- Major plumbing leaks that lead to flooding; waterlogged ceiling or floor in imminent danger of falling
- Natural gas or fuel oil leaks
- Any electrical problem or condition that could result in severe shock or fire
- Utilities not in service
- No running water
- Absence of a functioning toilet in the unit

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the HACSM.

If an owner fails to correct life threatening conditions as required by the HACSM, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by the HACSM, the HACSM may terminate the family's assistance. See 8-II.H.

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HACSM Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HACSM will determine whether the behavior is related to the disability. If so, upon the family's request, the HACSM will determine whether alternative measures are appropriate as a reasonable accommodation. The HACSM will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 109-162, Pub.L. 109-271]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives PHAs the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of the PHA to terminate the assistance of any participant if the PHA "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

Victim Documentation

HACSM Policy

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the HACSM will require the individual to submit documentation affirming that claim.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, and

One of the following:

A police or court record documenting the actual or threatened abuse, or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification and supporting documentation must be submitted to the HACSM within 14 business days after the HACSM issues their written request. The 14-day deadline may be extended at the HACSM's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the HACSM may proceed with assistance termination.

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

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

HACSM Policy

When the actions of a participant or other family member result in a HACSM decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the HACSM will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, the HACSM will terminate the perpetrator's assistance. If the victim does not provide the

certification and supporting documentation, as required, the HACSM will proceed with termination of the family's assistance.

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

PHA Confidentiality Requirements

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the PHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination,
- The family's right to an Informal Hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

HACSM Policy

When termination is initiated by the HACSM, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HACSM, 30 days notice may not be given. In these cases, the notice to terminate will be sent at the time the HACSM learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HACSM (see section 12-I.C.). The HACSM will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).