

## Chapter 12

### REEXAMINATIONS

[24 CFR 5.613, 24 CFR 5.615, 24 CFR Part 960 Subpart C]

#### **INTRODUCTION**

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. Families who choose to pay flat rent are required to complete a reexamination of income, deductions and allowances at least once every three years. To determine the amount of income-based rent, it is necessary for the PHA to perform a reexamination of the family's income. At the annual reexamination, families who choose to pay income-based rent must report their current household composition, income, deductions and allowances. Between regular annual reexaminations, HUD requires that families report all changes in household composition, but the PHA decides what other changes must be reported and the procedures for reporting them. This Chapter defines the PHA'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;

Whose family members, age 6 and older, each have submitted their Social Security numbers or have certifications on file that they do not have a Social Security number;

Whose family members have submitted required citizenship/eligible immigration status/non contending documents.

#### **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 to be recertified every three years. For families who move in on the first of the month, the annual recertification will be completed 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 recertification will be completed no later than the first of the month in which the family moved in, the following year.

When families move to another dwelling unit:

**An annual recertification will be conducted (unless a recertification has occurred in the last 120 days) and the anniversary date will be changed.**

### **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 **120** days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA 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.

**The family will indicate whether the family chooses income-based or flat rent by checking the appropriate box on the document, signing the document, and returning the document to the PHA.**

**If the family chooses flat rent, the family will fill out a Personal Declaration form, describing family composition.**

**The Personal Declaration form will be signed by head of house and spouse.**

**If the family chooses flat rent, no reexamination appointment will be necessary.**

### **Methodology**

If the family chooses income-based rent, or if the family has paid the flat rent for three (3) years, the PHA will use the following methodology for conducting annual recertifications:

**To schedule the specific date and time of appointments in the written notification to the family.**

### **Persons with Disabilities**

Persons with disabilities, who are unable to come to the PHA's office will be granted an accommodation of conducting the interview **at the person's home**, upon verification that the accommodation requested meets the need presented by the disability.

### **Collection of Information**

**The PHA representative will interview the family and enter the information provided by the family on the recertification form.**

## **Requirements to Attend**

The following family members will be required to attend the recertification interview and sign the application for continued occupancy:

### **All adult household members**

If the head of household is unable to attend the interview:

### **The appointment will be rescheduled.**

## **Failure to Respond to Notification to Recertify**

The written notification will explain which family members are required to attend the recertification interview. The family may call to request another appointment date up to **1** day prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the PHA, the PHA **will** reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA will

### **Refer the family to our legal department to start eviction proceedings.**

**Exceptions to these policies may be made by Quality Control Specialist if the family is able to document an emergency situation that prevented them from canceling or attending the appointment.**

## **Documents Required from the Family**

In the notification letter to the family, the PHA will include instructions for the family to bring the following:

**Documentation of income for all family members**

**Documentation of liquid and non-liquid assets**

**Documentation to substantiate any deductions or allowances**

**Personal Declaration Form completed by head of household**

**Documentation to verifying compliance with community service by all non-exempt adults**

## **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. Verifications used for recertification must be less than **120** days old. 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.

## **Changes in the Tenant Rent**

If there is any change in rent, including change in family's choice in rent, the lease will be amended, or a new lease will be executed, or a Notice of Rent Adjustment will be issued [24 CFR 966.4(c)].

### **Tenant Rent Increases**

If tenant rent **increases**, a thirty-day notice will be mailed to the family prior to the anniversary date.

If less than thirty days are remaining before the anniversary date, 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.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the PHA.

**If the tenant rent decreases and the tenant reported the change within a month prior to the annual recertification anniversary date or between the annual recertification anniversary date and the effective date of the annual recertification, the change will be treated as an interim. The change will be effective the first of the following month that the family**

reported the change. If necessary, the PHA will run another HUD 50058 as an annual recertification.

### **C. REPORTING INTERIM CHANGES**

Families must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain PHA 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 PHA will complete an application for continued occupancy and reverify, using the same procedures the PHA staff would use for an annual reexamination, except for effective dates of changes. In such case, the Interim Reexamination Policy would be used.**

**The annual reexamination date will not change as a result of this action.**

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified prior to the approval by the PHA of the family member being added to the lease.

#### **Interim Reexamination Policy**

**The PHA will not conduct interim reexaminations when families have an increase in income.**

**Families will be required to report increases in income/assets between regular annual reexaminations.**

#### **Increases in Income to Be Reported**

Families paying flat rent are not required to report any increases in income or assets.

**Families are not required to report any increases in income or assets until the annual recertification, unless a new family member joins the household (see C. Reporting Interim Changes.)**

**Families must report all increases in income/assets of all household members to the PHA within 10 calendar days of the occurrence.**

**Families are only required to report the following increases in income:**

**Increases in earned income from the employment of a current household member;**

**Increases in income because a person with income joins the household;**

**Increases in household income of more than \$100 per month;**

**Increases in household income which come as a result of a *new* income source.**

### **Increases in Income and Rent Adjustments**

**The PHA will not process rent adjustments resulting from any increase in income until the next regularly scheduled recertification, other than when a new member joins the household.**

**Rent increases (except those due to misrepresentation) require 30 days notice.**

### **Decreases in Income and Rent Adjustments**

Residents may 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 PHA will process the rent adjustment unless the PHA confirms that the decrease in income will last less than 30 calendar days.

**The PHA will process rent adjustments whenever there is a decrease in income.**

### **D. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The PHA will not reduce the public housing 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 PHA, based on written information supplied to the PHA 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 public 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 PHA 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 PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

**Cooperation Agreements**

The PHA has a **written** cooperation agreement in place with the local welfare agency that assists the PHA in obtaining the necessary information regarding welfare sanctions.

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to public housing residents.

The PHA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

### **Family Dispute of Amount of Imputed Welfare Income**

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

An explanation for the PHA'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 PHA'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.

### **E. OTHER INTERIM REPORTING ISSUES**

A family should report whenever they have a change in their zero income status. An interim reexamination does not effect the date of the annual recertification.

Any changes reported by residents other than those listed in this section **will be noted in the file by the staff person and in the computer tenant file maintenance screen but** will not be processed between regularly scheduled annual recertifications.

### **PHA Errors**

If the PHA 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.

### **F. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)**

#### **Standard for Timely Reporting of Changes**

The PHA requires that families report interim changes to the PHA within **ten** working 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 **ten** working days of the change.

**An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within ten days of receipt of the Notice of Action from TANF**

**that shows the full adjustment for employment income.**

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 PHA), it will be considered untimely reporting.

### **Procedures When the Change is Reported in a Timely Manner**

The PHA 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 days' notice.

Decreases in the Tenant Rent are effective the first of the month following the month in which the change is reported.

**The change will not be made until the third party verification is received.**

### **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**.

**The PHA will not execute a payment agreement if the payback is so much that it will take the family longer than 24 months to complete the agreement without the approval of the Field Operations Director.**

**Decrease in Tenant Rent** will be effective on the first of the month following completion of processing by the PHA and not retroactively.

### **Procedures when the Change is not Processed by the PHA 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 the PHA in a timely manner.

Therefore, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the PHA.

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 amount.

## **G. REPORTING OF CHANGES IN FAMILY COMPOSITION**

The members of the family residing in the unit must be approved by the PHA. The family must inform the PHA and request approval of additional family members other than additions due to birth, adoption, marriage, court-awarded custody before the new member occupies the unit.

All changes in family composition must be reported within **10** working days of the occurrence in writing.

If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household **or spouse** that the member (who may be the head of household) removed is permanently absent.

### **Increase in Family Size**

The PHA will consider a unit transfer (if needed under the Occupancy Guidelines) for additions to the family in the following cases:

**Addition by marriage/or marital-type relation.**

**Addition of a minor who is a member of the nuclear family who had been living elsewhere.**

**Addition of a PHA-approved live-in attendant.**

**Addition of any relation of the Head or Spouse.**

**Addition due to birth, adoption or court-awarded custody.**

If a change due to birth, adoption, court-awarded custody, or need for a live-in attendant requires a larger size unit due to overcrowding, the change in unit size shall be made effective upon availability of an appropriately sized unit.

### **Definition of "Temporarily/Permanently Absent"**

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit in accordance with this policy.

### **Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify the PHA before they move out of a unit in accordance with the lease and to give the PHA information about any family absence from the unit.

Families must notify the PHA if they are going to be absent from the unit for more than **thirty** consecutive days. A person with a disability may request an extension of time as an accommodation.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may:

**Conduct home visit**

**Write letters to the family at the unit**

**Post letters on exterior door**

**Telephone the family at the unit**

**Interview neighbors**

**Verify if utilities are in service**

**Check with Post Office for forwarding address**

**Contact emergency contact**

If the entire family is absent from the unit, without PHA permission, for more than **thirty** consecutive days, the unit will be considered to be vacant and the PHA will terminate tenancy.

**As a reasonable accommodation for a person with a disability, the PHA may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.)** During the period of absence, the rent and other charges must remain current.

### **Absence of Any Member**

Any member of the household will be considered permanently absent if s/he is away from the unit for **six** consecutive months **180** except as otherwise provided in this Chapter.

### **Absence Due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than **180** consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remain current.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA's "Absence of Entire Family" policy.

### **Absence Due to Incarceration**

If the sole member is incarcerated for more than **30** consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for **30** consecutive days. The rent and other charges must remain current during this period.

### **Foster Care and Absences of Children**

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than **six** months from the date of removal of the child(ren), the family will be required to move to a smaller size unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the PHA's occupancy guidelines.

### **Absence of Adult**

If neither parent remains in the household and the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the PHA will treat that adult as a visitor for the first **14** calendar days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status.

When the PHA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted pending a final disposition. The PHA will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than **180** days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home will be treated in the following manner:

**Full time students who attend school away from the home and live with the family during school recess will be considered temporarily absent from the household.**

**Visitors (See Chapter on Leasing)**

Any adult not included on the HUD 50058 who has been in the unit more than **14** consecutive days, or a total of **14** cumulative days in the month will be considered to be living in the unit as **an unauthorized** household member.

**Absence of evidence of any other address will be considered verification that the visitor is an unauthorized household member.**

**Statements from neighbors and/or PHA staff will be considered in making the determination.**

The PHA will consider:

Statements from neighbors and/or PHA staff

Vehicle license plate verification

Post Office records

Driver's license verification

Law enforcement reports

Credit reports

**Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.**

**The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the PHA will terminate the family's lease since prior approval was not requested for the addition.**

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to **180** days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than **180** days per year, the minor will be considered to be an eligible visitor and not a family member. If both parents reside in Public Housing, only one parent would be able to claim the child for deductions and for determination for the occupancy standards.

#### **H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF UNIT**

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

**In order for a minor child to continue to receive assistance as a remaining family member:**

**The PHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period.**

A reduction in family size may require a transfer to an appropriate unit size per the Occupancy Standards.

#### **I. CHANGES IN UNIT SIZE**

The PHA shall grant exceptions from the occupancy standards if the family requests and the PHA determines the exceptions are justified according to this policy.

**When an approvable change in the circumstances in 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.**

(Reference chapter on Occupancy Standards)

#### **J. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES**

Under the Noncitizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

The head of household, co-head or spouse is a U.S. citizen or has eligible immigrant status; AND

The family does not include any ineligible immigrants other than the head or spouse, or parents or children of the head, co-head or spouse.

Mixed families who qualify for continued assistance after 11/29/96 may receive prorated assistance only.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, or the family may choose prorated assistance (See Chapter titled "Factors Related to Total Tenant Payment Determination"). The PHA may no longer offer temporary deferral of termination (see Chapter on "Lease Terminations").

**Reserved**