

§ 982.353

24 CFR Ch. IX (4-1-02 Edition)

housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23860, Apr. 30, 1998; 64 FR 13057, Mar. 16, 1999; 64 FR 26645, May 14, 1999; 65 FR 55162, Sept. 12, 2000]

§ 982.353 Where family can lease a unit with tenant-based assistance.

(a) *Assistance in the initial PHA jurisdiction.* The family may receive tenant-based assistance to lease a unit located anywhere in the jurisdiction (as determined by State and local law) of the initial PHA. HUD may nevertheless restrict the family's right to lease such a unit anywhere in such jurisdiction if HUD determines that limitations on a family's opportunity to select among available units in that jurisdiction are appropriate to achieve desegregation goals in accordance with obligations generated by a court order or consent decree.

(b) *Portability: Assistance outside the initial PHA jurisdiction.* Subject to paragraph (c) of this section, and to § 982.552 and § 982.553, a voucher-holder or participant family has the right to receive tenant-based voucher assistance in accordance with requirements of this part to lease a unit outside the initial PHA jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program under this part. The initial PHA must not provide such portable assistance for a participant if the family has moved out of its assisted unit in violation of the lease.

(c) *Nonresident applicants.* (1) This paragraph (c) applies if neither the household head or spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of the initial PHA at the time when the family first submitted an application for participation in the program to the initial PHA.

(2) The following apply during the 12 month period from the time when a family described in paragraph (c)(1) of this section is admitted to the program:

(i) The family may lease a unit anywhere in the jurisdiction of the initial PHA;

(ii) The family does not have any right to portability;

(iii) The initial PHA may choose to allow portability during this period.

(3) If both the initial PHA and a receiving PHA agree, the family may lease a unit outside the PHA jurisdiction under portability procedures.

(d) *Income eligibility.* (1) For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

(2) If a portable family is a participant in the initial PHA Section 8 tenant-based program (either the PHA voucher program or the PHA certificate program), income eligibility is not redetermined when the family moves to the receiving PHA program under portability procedures.

(3) Except as provided in paragraph (d)(2) of this section, a portable family must be income eligible for admission to the voucher program in the area where the family leases a unit under portability procedures.

(e) *Leasing in-place.* If the dwelling unit is approvable, a family may select the dwelling unit occupied by the family before selection for participation in the program.

(f) *Freedom of choice.* The PHA may not directly or indirectly reduce the family's opportunity to select among available units except as provided in paragraph (a) of this section, or elsewhere in this part 982 (e.g. prohibition on use of ineligible housing, housing not meeting HQS, or housing for which the rent to owner exceeds a reasonable rent).

[60 FR 34695, July 3, 1995, as amended at 61 FR 27163, May 30, 1996; 61 FR 42131, Aug. 13, 1996; 64 FR 26646, May 14, 1999]

§ 982.355 Portability: Administration by receiving PHA.

(a) When a family moves under portability (in accordance with § 982.353(b)) to an area outside the initial PHA jurisdiction, another PHA (the "receiving PHA") must administer assistance for the family if a PHA with a tenant-based program has jurisdiction in the area where the unit is located.