



Housing Choice Voucher E-Newsletter

October 2010 | Volume 1, Issue 2



<http://www.hud.gov/offices/pih/programs/hcv/>

IN THIS ISSUE

- » Portability and PIC
- » Deadlines
- » PIH Notices
- » HCV FAQs
- » New Rent Reasonableness Requirement Guidance
- » New Subsidy Layering Guidelines for Project-Based Vouchers

Deadlines

Application for MTW Program
-November 30, 2010 (see PIH Notices)



Portability and PIC

The information submitted by housing agencies to the PIH Information Center (PIC) about our program participants is used for many purposes at HUD and accuracy of the information is essential. The action codes entered for a portability family allow HUD to determine things such as how many families move under portability, where families are moving to and if portability moves occur within or outside certain geographical areas. HUD uses this information to assist us in making decisions on program rules as well as responding to Congressional inquiries.

When a family moves under portability into a receiving public housing agency's (PHA's) jurisdiction, the PHA should submit an Action Code 4, Portability Move-in, if the family was previously assisted by the initial PHA regardless of whether the receiving PHA absorbs the family or bills the initial PHA.

The initial PHA has until the last day of the month in which the receiving PHA submitted the Action Code 4 to submit the Action Code 5, Portability Move-out. Otherwise, PIC will automatically generate an Action Code 5 on the first day of the next month. For example, the receiving PHA submits an Action Code 4 effective June 1. The Action Code 5 will be automatically generated by PIC on July 1 if the initial PHA does not submit an Action Code 5 with an earlier date.

PHAs can use the Overlapping Dates Report in PIC to identify the families who are pending an auto Portability Move-out action if they wish to submit the Action Code 5 on their own. The effective date of the Action code 5 should be the day before the effective date of the Action Code 4 submitted by the receiving PHA.

Initial PHAs must never complete an Action Code 6, End of Participation, for portability families unless it is confirmed that the family never leased a unit in the receiving PHA's jurisdiction.

If the family was never assisted in the initial PHA's jurisdiction (exercised portability upon first receiving a voucher), the family will be considered an Action Code 1, New Admission by the receiving PHA.

If you have any questions regarding the submission of records to PIC, please contact the PIC Coach in your local HUD Field Office.

PIH Notices

PIH Notice 2010-29, "Request for Applications under the Moving to Work Demonstration Program," issued July 30, 2010. This Notice offers eligible PHAs the opportunity to apply for admission to the MTW demonstration program. HUD has authorization to increase the number of MTW agencies by three. This Notice defines applicant eligibility, lists submission requirements, and describes the selection process. The application due date is November 30, 2010. With this Notice is an attached optional eligibility worksheet.

PIH Notice 2010-30, "Transactions between Public Housing Agencies and their Related Affiliates and Instrumentalities," issued Aug 2, 2010. This Notice extends PIH Notice 2007-15 (HA) for another year. (The Notice was previously extended by 2008-27 and 2009-24.) This Notice provides guidance to PHAs regarding the creation and use of affiliates and instrumentalities so to participate in Public and Indian Housing programs under the United States Housing Act of 1937. No changes were made to the Notice.

To read these Notices: <http://bit.ly/djlvjI>

HCV FAQs

Family Unification Program (FUP)

Question: Are 18-month FUP vouchers eligible for portability? If so, do they need to port to a PHA that has an existing program?

Answer: There is nothing that precludes a FUP participant from utilizing the portability option under the HCV program. FUP is administered the same as the regular HCV program. The main difference is the population to which these vouchers are issued. Additionally, the participant does not have to port to a jurisdiction that administers FUP. If this is the case, and the receiving PHA does not absorb the FUP participant into its regular HCV program, all the other rules of portability apply. Further, it is the responsibility of the initial PHA to initiate termination at the end of the 18-month term of the youth's assistance.

For more information, see the Family Unification Program (FUP) Notice of Funding Availability FR-5342-N-01:

<http://www.hud.gov/offices/adm/grants/nofa09/fupsec.pdf>

Question: If a parent of a family that was awarded a voucher under FUP loses parental rights and the children move from the voucher unit, does the parent get to keep the FUP voucher to stay in the unit?

Answer: The family is still eligible to keep their FUP voucher, as termination of a FUP voucher is handled in the same way as regular HCVs. The regulations do not permit HCV termination due to loss of parental rights or children reaching adulthood. The problem of vouchers going to families that then lose their parental rights can be managed (to some degree) at the front-end by the Public Child Welfare Agency (PCWA) only referring to the PHA those families that have a strong likelihood of being reunited with their children or maintaining their parental rights.

New Rent Reasonableness Requirement Guidance

HUD recently issued Notice 2010-18 which revises rent reasonableness determinations in the Housing Choice Voucher (HCV) program as it pertains to comparable unassisted units in the premises. This Notice, issued on May 10, 2010, revises and supersedes certain guidance issued in HUD Notice PIH 2009-51.

This Notice affects the determination of rent reasonableness for units in properties undergoing Housing Conversion Actions (HCA), such as decisions by the owner to opt-out or not renew Section 8 project-based contracts, owner prepayment of the mortgage or voluntary termination of the mortgage insurance of a preservation eligible property (preservation prepayments), HUD enforcement actions against the owner (including termination or non-renewal of a Section 8 project-based housing assistance payments (HAP) contract, and HUD property disposition activities.

HUD provides tenant-based rental assistance to assist eligible residents affected by the housing Conversion Actions. In determining the rent reasonableness, the public housing agency (PHA) must ensure that the rents paid for HCV assisted units do not exceed the rents for comparable unassisted units.

When owners decide on their own to charge rents that are below what other tenants are charged and not what the market might bear, those units are not considered "assisted units" for purposes of rent reasonableness determinations and, therefore, must be considered when establishing if an HCV rent to an owner is reasonable.

However, this Notice defines circumstances where assisted unit is not only one that is assisted under a Federal, State, or local government program, but also the following:

- Units where the rent and/or rent increase are controlled or restricted by law or a court order (so long as that law or court order does not also apply to voucher participants). The PHA is responsible for verifying the existence and applicability of the law or court order prior to excluding the units from the rent reasonableness determination.
- In cases of a property undergoing a HCA, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants living in the property at the time of conversion, the owner must provide written notice to the PHA and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing, and copies of the families' leases.

The Notice also provides guidance for owners of multifamily properties that underwent a conversion prior to issuance of this Notice.

To read the Notice: <http://bit.ly/djlvjI>

New Subsidy Layering Guidelines for Project-Based Vouchers



In a Federal Register Notice issued July 9, 2010, HUD provides administrative guidelines for subsidy layering reviews pertaining to Section 8 project-based voucher assistance for newly constructed and rehabilitated structures uniting a variety of government assistance.

The Housing and Economic Recovery Act of 2008 (HERA) made several revisions to the Section 8 project-based voucher program. As the Notice explains, Section 102 of the HUD Reform Act (HRA) of 1989 contained provisions "to ensure greater accountability and integrity in the way the Department makes assistance available under certain of its programs." Specifically HUD is to certify that assistance for specific housing "will not be more than necessary to make the assisted activity feasible after taking into account assistance from other government sources." Accordingly, a subsidy layering review must be performed. HERA simplifies this process by eliminating subsidy reviews for existing housing. Through this Notice, HUD identifies that "the HERA provision relating to the elimination of subsidy layering reviews for existing housing is self-im-

plementing; the provision relating to State or local agencies performing subsidy layering reviews for project-based voucher HAP contracts for new construction and rehabilitated projects is not self-implementing."

The Notice makes clear the certification requirements and a PHA's responsibility. HUD further clarifies in this Notice that in accordance with HERA "when project-based voucher assistance is proposed for newly constructed and rehabilitated structures, subsidy layering reviews may be satisfied if the applicable State or local agency has conducted such a review. HUD has defined these agencies to be qualified housing credit agencies (HCA), which may include State housing finance agencies, participating jurisdictions under the HOME program or other State housing agencies that meet the definition of a HCA as defined under Section 42 of the Internal Revenue Code of 1986." The HCA must notify HUD of its intent to conduct such a review.

HUD provides guidelines for the following two categories of subsidy layering reviews to determine if duplicative assistance exists:

- Proposed project-based voucher HAP contracts where the HCA subsidy layering review includes proposed project-based voucher assistance.
 - Review all sources of funds for proposed project.
 - Determine if development costs and fees are within safe harbor standards.
 - If cost and fees exceed but are within the maximum allowable amount, additional information is required.
 - If cost and fees exceed maximum allowable amount, reduction must be made.
 - LIHTC projects include an analysis of equity.
 - HUD has established safe harbor percentage allowances including a general condition safe harbor of 6 percent of construction contract amount.
 - Operation standards are reviewed and must analyze the "project's 15-year operating pro forma."
- Proposed project-based voucher HAP contracts where subsidy layering review has been performed by qualified HCA without consideration of project-based voucher assistance.
 - Limited review consisting of the "15-year operating pro forma" and a review to ensure no duplication of assistance.

Additional details are provided in the Notice on HUD monitoring, analysis of development costs, and an appendix containing documents to be submitted.

You may review the entire Notice by going to: <http://edocket.access.gpo.gov/2010/pdf/2010-16827.pdf>

Contact us:

Public and Indian Housing Information
Resource Center (PIH IRC)
2614 Chapel Lake Drive
Gambrills, MD 21054

Toll free number: 1-800-955-2232
Fax number: 1-443-302-2084
E-mail: pihirc@firstpic.org
(Put "Housing Choice Voucher E-Newsletter"
in the subject line)