

CHAPTER 12

DENIAL OR TERMINATION OF ASSISTANCE

12.0 INTRODUCTION

The HA may deny assistance to a family or to the requested addition of a household member or terminate assistance to a family because of the family's action or failure to act. This chapter outlines the HA's policies on denial of admission or termination of assistance. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

12.1 DENIAL OF ASSISTANCE OR ADMISSION

24 CFR 982.552 (b) (3), (4) & (5): “A PHA must deny admission to the program for an applicant... if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title. The family must submit required evidence of citizenship or eligible immigration status. The PHA must deny ... assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.”

24 CFR 982.553 (a) (1) (i): “The PHA must prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA may admit the household if the PHA determines: (A) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or (B) That the circumstances leading to eviction no longer exist (for example, the criminal household member died or is imprisoned).”

24 CFR 982.553 (a) (1) (ii): “The PHA must establish standards that prohibit admission if: (A) The PHA determines that any household member is currently engaging in illegal use of a drug; (B) The PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or (C) Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.”

24 CFR 982.553 (a) (2) (i): “The PHA must establish standards that prohibit admission to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.”

Policy:

The HA **must** deny assistance in the following cases:

- Any member of the family fails to sign and submit consent forms for obtaining information to verify program eligibility.
- Failure to document citizenship or eligible immigration status.
- If no member of the family is a U.S. citizen or eligible immigrant.
- If any member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- If any household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity unless the household member provides proof of successful completion of a drug rehabilitation program or the household member is deceased or in prison.
- The HA determines that any household member is currently engaged in the use of illegal drugs.
- The HA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

24 CFR 982.552 (c) (1): “The PHA may at any time deny program assistance for an applicant ... for any of the following grounds: (i) If the family violates any family obligations under the program; (ii) If any member of the family has been evicted from federally assisted housing in the last five years; (iii) If a PHA has ever terminated assistance under the program for any member of the family; (iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program; (v) If the family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act....”

Policy:

A family **may** be denied assistance, or the requested addition of a household member **may** be denied, if any household member is currently engaged in or has in the past three years engaged in any of the following activities:

- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity, property owners and management staff, and by persons performing contract administration functions or other responsibilities on behalf of the HA.
- Conviction for drug-related or violent criminal activity.
- Failure to provide any or all information that the HA or HUD determines is necessary in the administration of the program.
- Failure to provide accurate information to the HA.
- Eviction from federally-assisted housing in the last three years.
- Housing assistance has ever been terminated by any housing authority.
- Fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Owing rent or other amounts to any HA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.*
- Failure to reimburse the HA for any amounts the HA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.*
- Threatening or actual violent or abusive behavior toward HA personnel.

* The HA will not deny assistance on the basis of uncollected damage claim payments made by the HA to an owner on an applicant's behalf prior to 1999.

12.2 **TERMINATION OF ASSISTANCE**

24 CFR 982.552 (b) (2): “The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.”

24 CFR 982.552 (b) (3), (4) & (5): “A PHA must ... terminate program assistance for

a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title. The family must submit required evidence of citizenship or eligible immigration status. The PHA must ... terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.”

24 CFR 982.553 (b) (1) (ii): “The PHA must immediately terminate assistance for a family under the program if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.”

Policy:

The HA **must** terminate assistance for the following reasons:

- If the family is *evicted* from housing assisted under the program for serious lease violations, which will include, but not be limited to: failure to pay rent, violent or drug-related criminal activity, abuse of alcohol.
- Any member of the family fails to sign and submit consent forms for obtaining information to re-verify program eligibility.
- Failure to document citizenship or eligible immigration status. Failure to document citizenship or eligible immigration status
- If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

24 CFR 982.552 (c) (1): “The PHA may at any time... terminate program assistance for a participant for any of the following grounds: (i) If the family violates any family obligations under the program; (ii) If any member of the family has been evicted from federally assisted housing in the last five years; (iii) If a PHA has ever terminated assistance under the program for any member of the family; (iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program; (v) If the family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act....”

24 CFR 982.553 (b) (1) (i): “The PHA must establish standards that allow the PHA to terminate assistance for a family under the program if the PHA determines that:

(A) Any household member is currently engaged in any illegal use of a drug; or (B) A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.”

24 CFR 982.553 (b) (1) (iii): “The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any family member has violated the family’s obligation under 982.551 not to engage in any drug-related criminal activity.”

24 CFR 982.553 (b) (2): “The PHA must establish standards that allow the PHA to terminate assistance under the program for a family if the PHA determines that any household member has violated the family’s obligation under 982.551 not to engage in violent criminal activity.”

24 CFR 982.553 (b) (3): “The PHA must establish standards that allow termination under the program if the PHA determines that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.”

NOTICE: PIH 2012-28: “If the recertification screening reveals that the tenant has falsified information or otherwise failed to disclose criminal history on his/her application and/or recertification forms, the O/A or PHA should pursue eviction or termination of assistance...”

“...if the tenant or member of the tenant’s household, regardless of the date of admission, engages in criminal activity (including sex offenses) while living in HUD-assisted housing, the O/A or PHA should pursue eviction or termination of assistance to the extent allowed by HUD requirements, the lease, and the state or local law.”

Policy:

The HA **may** terminate assistance for the following reasons:

- For *violations* of the lease which will include, but not be limited to: nonpayment of rent, disturbance of neighbors, and destruction of property.
- If the family does not receive a transfer voucher prior to moving out of an assisted unit.
- If a family member engages in the use of illegal drugs or violent criminal activity.
- If the HA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may

threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

- If any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.
- If any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If a family member has engaged in or threatened violent or abusive behavior toward HA personnel.
- If a household member has engaged in criminal activity (by preponderance of evidence) regardless of whether the member has been arrested or convicted.
- If the family violates any family obligations under the program.
- If a household member has falsified information or otherwise failed to disclose criminal history on his/her reexamination forms.
- If any member of the household is found to be subject to a lifetime registration requirement under a State sex offender registration program at the annual/regular reexamination.*

***Note:** There is currently no HUD statutory or regulatory basis to evict or terminate assistance of a household solely on the basis of a household member’s sex offender registration status if the following two criteria are met:

1. The household member was admitted to the program prior to June 25, 2001; **and**
2. The household member’s sex offender registration status occurred before June 25, 2001.

12.3 CONSIDERATION OF CIRCUMSTANCES

24 CFR 982.552 (c) (2): “In determining whether to deny or terminate assistance because of action or failure to act by members of the family: (i) The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.”

Policy:

In deciding whether to deny or terminate assistance, the HA will consider:

- Whether a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted.
- The seriousness of the case, especially with respect to how it would affect other residents.
- The effect that termination of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family’s recent history, and the likelihood of favorable conduct in the future.
- In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the HA will consider if the household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

12.4 OTHER TERMINATIONS OF ASSISTANCE

24 CFR 982.312 (a): “The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason.”

Policy:

If the family is absent from the unit for more than 180 consecutive days, the family assistance will be terminated.

24 CFR 982.455: “The HAP contract terminates automatically 180 days after the last housing assistance payment to the owner.”

Policy:

If no housing assistance payments are made on the family’s behalf for a minimum of 180 days, the family assistance will be terminated.

24 CFR 982.454: “The PHA may terminate the HAP contract if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is

insufficient to support continued assistance for families in the program.”

Policy:

If the HA determines it has insufficient funding to support continued assistance for families in the program, it may terminate assistance on a last-on, first-off basis.

24 CFR 982.311(d)(1) “If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.”

Policy:

If the family moves from the unit without notice to the owner and the PHA, SCCHA will terminate the HAP contract and the family’s assistance at the end of that calendar month in which the family moves out.