

CHAPTER 13

INFORMAL REVIEWS AND HEARINGS

13.0 INTRODUCTION

The HA conducts informal reviews and hearings to ensure its decisions are in accordance with the law, HUD regulations and HA policies. This Chapter describes HA policies related to when the HA provides an informal review to an applicant or an informal hearing to a participant family. The policies in this Chapter pertain to Moving to Work and non-Moving to Work families.

13.1 INFORMAL REVIEWS FOR APPLICANTS

24 CFR 982.554 (a): “Notice to applicant. The PHA must give an applicant prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the PHA decision. The notice must also state that the applicant may request an informal review of the decision and must describe how to obtain the informal review.

(b) Informal review process. The PHA must give an applicant an opportunity for an informal review of the PHA decision denying assistance to the applicant.”

Policy:

An Applicant’s written request for a review must be received no later than 15 days from the date of the HA notice to deny assistance.

The HA will schedule the review within 10 days from receipt of the request from the family.

Reviews may be conducted in person, by telephone or by mail for all applicants.

In rendering a decision related to denial of assistance, the HA will evaluate the following factors:

- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations or in HA policy, then the decision to deny assistance will be overturned.
- The validity of the evidence. The HA will evaluate whether the facts presented support the grounds for denial of assistance. If the facts show that there are grounds for denial, and the denial is required by HUD, the HA will uphold the decision to deny assistance.

The HA will notify the applicant of the final decision within 30 days from the date of the informal review.

The HA will not withdraw a family's position on the waiting list until the time allowed for the family to request an informal review has elapsed.

13.2 **INFORMAL HEARINGS FOR PARTICIPANTS**

24 CFR 982.555 (a) (1): “A PHA must give a participant family an opportunity for an informal hearing to consider whether ... PHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHA policies.”

24 CFR 982.555 (a) (2): “...the PHA must give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP contract.”

24 CFR 982.555 (d) “Where a hearing for a participant family is required under this section, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.”

24 CFR 982.555 (e): “The administrative plan must state the PHA procedures for conducting informal hearings for participants.”

Policy:

A participant's written request for a hearing must be received no later than 15 days from the date on the HA notice to terminate assistance or the HA's written explanation of its decision regarding the participant family's individual circumstances.

The HA will send written notice of the informal hearing appointment date and time to the family within 10 days of receipt of the request from the family.

Under certain circumstances, the HA may perform the hearing by mail or telephone.

If a hearing is requested and takes place based on the HA's notice to terminate assistance, the HA will not terminate the assistance until the hearing decision has been reached.

The family may request to reschedule an informal hearing one time:

- If the request is received no later than 1 business day after the scheduled hearing date; or
- Due to an unavoidable conflict which affects the health, safety or welfare of the family or as a reasonable accommodation for a person with disabilities.

At its discretion, the HA may request documentation of the need to reschedule prior to rescheduling the informal hearing.

If the family does not appear at a scheduled hearing and does not request to reschedule the hearing, no further hearing dates will be scheduled and the HA's decision will be upheld.

At the hearing officer's discretion, children may be denied admittance to the hearing.

Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the informal hearing at the discretion of the hearing officer. The hearing officer may end the hearing due to disruptive behavior by the program participant.

Hearings will be audio taped and the recordings will be saved for 90 days.

13.3 RIGHT OF FAMILY TO REVIEW DOCUMENTS

24 CFR 982.555 (2) (i): "... The family must be given the opportunity to examine before the PHA hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If the PHA does not make the document available for examination on request of the hearing the PHA may not rely on the document at the hearing."

Policy:

Upon the family's request, the HA will provide an opportunity for the family to copy the documents to be presented at the hearing no more than three days in advance of the hearing.

24 CFR 982.555 (2) (ii): "The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at PHA offices before the PHA hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such documents at the PHA's expense."

Policy:

The family must submit the documents that they will present during the hearing along with a list of the attending witnesses at least three days before the hearing. The HA must be allowed to copy these documents at the HA's expense.

13.4 INFORMAL HEARING DECISIONS

24 CFR 982.555 (e) (4) (i): "The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person."

24 CFR 982.555 (e) (6): “The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.”

24 CFR 982.555 (f): “The PHA is not bound by a hearing decision:

- (1) Concerning a matter for which the PHA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the PHA hearing procedures.**
- (2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.**
- (3) If the PHA determines that it is not bound by a hearing decision, the PHA must promptly notify the family of the determination, and of the reasons for the determination.”**

Policy:

The Hearing Officer will notify the participant family and the HA of the final decision in writing within 30 days of the date of the informal hearing.

The HA will provide notice in the hearing decision letter regarding timelines for judicial review as governed by the Code of Civil Procedure section 1094.6.

If the participant requests an administrative review of the documentation presented at the informal hearing, the request must be submitted in writing within 15 days from the date of the hearing decision letter.

If the HA determines it is not bound by a hearing decision, the HA will send written notification to the family within 30 days of the Hearing Officer’s written decision or the participant’s request for an administrative review, whichever is later.

13.5 INFORMAL HEARINGS FOR APPLICANTS OR PARTICIPANTS WITH INELIGIBLE IMMIGRATION STATUS

24 CFR 5.514 9 (e) (4): “Pending the completion of the INS appeal under this section assistance may not be delayed, denied, reduced or terminated on the basis of immigration status.”

24 CFR 5.514 (f) (1): “After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that the responsible entity provide a hearing. This request must be made either within 30 days of receipt of the

notice described in paragraph (d) of this section or within 30 days of receipt of the INS appeal decision issued in accordance with paragraph (e) of this section.”

24 CFR 5.514 (f) (2) (iii) (A): “The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.”

Policy:

For applicants, if there is a USCIS appeal, assistance may not be delayed, denied or terminated on the basis of the applicant’s immigration status prior to the receipt of the decision of the USCIS appeal.

If an applicant or participant files an appeal with the USCIS, he or she must provide to the HA a copy of the appeal and evidence that the appeal was sent to USCIS. The HA may proceed to deny the application or terminate assistance if a copy of the appeal to USCIS and evidence that the appeal was submitted to USCIS are not submitted to the HA.

A request for a hearing with the HA can be made after a USCIS decision or in lieu of a USCIS appeal. The request must be received either: 30 days from the notice of denial or termination from the HA or within 30 days of receipt of the USCIS appeal decision.