

CHAPTER 11

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

11.0 INTRODUCTION

This chapter describes the HA policies governing moves within or outside the HA's jurisdiction. The policies in this chapter pertain to Moving to Work and non-Moving to Work families.

11.1 ALLOWABLE MOVES

24 CFR 982.354 (b): “When a family may move. A family may move to a new unit if: (1) The assisted lease for the old unit has terminated. This includes a termination because:

- (i) The PHA has terminated the HAP contract for the owner's breach; or
 - (ii) The lease has terminated by mutual agreement of the owner and the tenant.
- (2) The owner has given the tenant a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the tenant.
- (3) The tenant has given notice of lease termination.
- (4) The family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking), and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.”

24 CFR 982.354(e)(2): At any time, the PHA may deny permission to move in accordance with section 982.552 (grounds for denial or termination of assistance.)”

Policy:

The HA will deny the family permission to move if:

- The HA has issued a termination letter to the family and the time to request a hearing has expired or the outcome of the hearing was to uphold the HA's decision.
- The family is in a contract that is receiving no Housing Assistance Payments (zero HAP). Exceptions will be made on a case by case basis for VAWA and Reasonable Accommodations.

The HA may deny the family permission to move if:

- The family has not fulfilled their initial lease term. Exceptions to this policy may be granted when owner and tenant mutually agree to terminate the lease or for extenuating circumstances such as domestic violence or as an approved reasonable accommodation.

The HA has no additional restrictions regarding the number of moves a participant family may make.

Copies of vacate notices must be provided to the HA for the determination of the family's eligibility to receive continued assistance. Vacate notices must be in accordance with the lease.

24 CFR 982.311 (d)(2): "If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy"

Policy:

The HA does not allow overlap of Housing Assistance Payments for a tenant except in the case of VAWA or an approved reasonable accommodation.

11.2 ENHANCED VOUCHER REQUIRED MOVES

Public and Indian Housing Notice 2016-02 (Enhanced Voucher Requirements for Over-housed Families): "When the PHA is informed [by owner] that an appropriate size unit is available, the PHA must immediately notify the over-housed family of the availability of the unit and the family must move to the appropriate size unit in a reasonable time (as determined by the PHA, but not to exceed 30 days) to continue to receive enhanced voucher assistance."

Policy:

A family living in an over-sized unit with an Enhanced Tenant Protection Voucher must move to an appropriately sized unit within 30 days of the unit becoming available. If there is a greater number of over-housed families than appropriately sized units, the family with the shortest tenancy tenure is required to move.

11.3 PORTABILITY

24 CFR 982.355 (a): "When a family moves under portability to an area outside the initial PHA's jurisdiction, the receiving PHA must administer assistance for the

family....”

PIH Notice 2021-15: “The PHA may not restrict an EHV family from exercising portability because they are a non-resident applicant.”

Incoming Portability Policy:

Incoming portability families must have a current voucher from the initial HA.

Incoming portability families will be required to attend a briefing.

SCCHA will absorb all incoming portability families.

Outgoing Portability Policy:

Outgoing portability families will not be required to attend a briefing.

Applicants who live in Santa Clara County at the time of their waiting list registration may exercise portability upon receipt of their voucher.

EHV Program applicants may exercise portability upon receipt of their voucher.

Applicants who live outside of Santa Clara County at the time of their waiting list registration must reside in Santa Clara County for the first year of their participation in the program unless both SCCHA and the receiving HA agree to grant an exception.

The Voucher term for a family porting out of Santa Clara County will be 180 days (120 days plus an automatic 60-day extension.) SCCHA will not extend the voucher term based on the Receiving Housing Authority’s request to SCCHA to extend the voucher term or the billing notice deadline.

If SCCHA has not received an initial billing notice from the receiving HA by the deadline specified on HUD form 52665, it will not honor late billing submissions and will return any subsequent billings. SCCHA may allow exceptions to this policy with approval by a Housing Department Manager.

11.4 VOUCHER EXTENSION FOR INCOMING PORTABILITY

24 CFR 982.355 (c) (8) “The family must promptly contact the receiving PHA in order to be informed of the receiving PHA's procedures for incoming portable families and comply with these procedures. The family's failure to comply may result in denial or termination of the receiving PHA's voucher.”

(13) “The receiving PHA must issue a voucher to the family. The term of the receiving PHA voucher may not expire before 30 calendar days from the expiration

date of the initial PHA voucher. If the voucher expires before the family arrives at the receiving PHA, the receiving PHA must contact the initial PHA to determine if it will extend the voucher.”

(14) “Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must notify the initial PHA of any extensions granted to the term of the voucher.”

Policy:

SCCHA will apply its policies on voucher extensions as outlined in Chapter 6 of this Administrative Plan.