

Housing Authority of the District of Columbia

Housing Choice Voucher Program

Administrative Plan



HCVP Administration Plan Table of Contents

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4900 STATEMENT OF POLICIES AND OBJECTIVES

- 4900.1 The Section 8 Program was established by the Housing and Community Development Act of 1974, 42 U.S.C. § 1437 (1976), and amended by the Housing and Community Development Act of 1981 (Pub. L. 97-35), the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181), the Technical Amendments Act of 1984 (Pub. L. 98-479), and the Housing and Community Development Act of 1987 (42 U.S.C. § 3543).
- 4900.2 Administration of the Housing Program and the functions and responsibilities of the District of Columbia Housing Authority (DCHA) shall be in compliance with the personnel policy of DCHA, the Equal Opportunity Plan, and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Procedures Manual.
- 4900.3 Administration of the Housing Choice Voucher Program (HCVP) shall be consistent with all federal, state, and local laws, including but not limited to:
- (a) Fair Housing Act (42 U.S.C. §§ 3601, *et seq.*);
 - (b) Federal and D.C. Fair Housing regulations;
 - (c) D.C. Human Rights Act (D.C. Official Code §§ 2-1401.01, *et seq.* (2011 Supp.));
 - (d) American with Disabilities Act (ADA) (42 U.S.C §§ 12101, *et seq.*);
 - (e) Violence Against Women Act (VAWA) (42 U.S.C. § 13981); and
 - (f) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq.*).

SOURCE: Final Rulemaking published at 59 DCR 7856 (June 29, 2012).

4901 STATEMENT OF LOCAL OBJECTIVES

- 4901.1 Consistent with the purpose and policy of the United States Housing Act of 1937, as amended, the mission of DCHA is to provide rental assistance for decent, safe, and affordable housing to eligible families in accordance with the provisions set forth in section 24 of the Code of Federal Regulations, other applicable sections of the Code of Federal Regulations, and applicable HUD notices and guidance.
- 4901.2 In addition, through the creative use of federal grants and local resources, DCHA seeks to respond to special local housing concerns such as homelessness and the de-institutionalization of mental health care consumers.
- 4901.3 This Administrative Plan (Plan), comprising chapters 49 through 59 of this title of the DCMR, outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code regarding the Housing Choice Voucher Program.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7857 (June 29, 2012).

4902 PROGRAM DESCRIPTION

4902.1 The HCVP is designed to achieve four major objectives:

- (a) To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;
- (b) To promote freedom of housing choice and spatial deconcentration of lower income and minority families;
- (c) To provide decent, safe, and sanitary housing for eligible participants; and
- (d) To provide incentives to private property owners to rent to lower income families by offering timely assistance payments and protection against unpaid rent, damages, and vacancy loss.

4902.2 HUD chose DCHA as a Moving-to-Work (MTW) agency and has a HUD-approved MTW plan that shall be updated every two (2) years. This program has been named Making an IMPACT. This Administrative Plan is designed to implement the MTW goals applicable to the HCVP. These goals are to:

- (a) Develop enhanced housing opportunities;
- (b) Sustain quality property management;
- (c) Achieve effective customer support services; and
- (d) Organize efficient businesslike operating systems.

4902.3 DCHA is responsible for complying with all subsequent changes in HUD regulations pertaining to the HCVP-administered programs. If such changes conflict with this Plan, HUD regulations shall control.

4902.4 DCHA is legally permitted to enter into contracts within the jurisdictional boundaries known as the District of Columbia.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7857 (June 29, 2012).

4903 APPLICABILITY OF THE ADMINISTRATIVE PLAN

- 4903.1 This Plan, comprising chapters 49 through 59 of this title of the DCMR:
- (a) Outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code related to HVCP; and
 - (b) Establishes policies for items which are not covered under other chapters of the DCMR or Federal regulations for the following programs directly funded by HUD and administered by DCHA's HCVP office:
 - (1) Tenant-Based Vouchers;
 - (2) Project-Based Vouchers;
 - (3) Enhanced Vouchers;
 - (4) Family Unification Program Vouchers;
 - (5) Veterans Affairs Supportive Housing (VASH) Vouchers;
 - (6) Mainstream and Non-Elderly Disabled Vouchers;
 - (7) Homeownership Vouchers;
 - (8) Portable Vouchers;
 - (9) Set-asides for Special Needs Populations as determined by the Board of Commissioners; and
 - (10) Moderate Rehabilitation Program.
- 4903.2 There are certain issues that may not be addressed in the Plan related to HCVP applicants and participants where DCHA turns to guidance provided by the HUD Housing Choice Voucher Guidebook, Federal regulations, HUD Memos and Notices, and guidelines or other applicable law.
- 4903.3 This Administrative Plan was adopted by a resolution of DCHA Board of Commissioners on June 13, 2012.
- 4903.4 This Plan replaces any Plans before it with the exception of chapters 2D and 17A.2 through 17A.4 of the preceding Administrative Plan.
- 4903.5 The Board of Commissioners shall approve any changes to the Plan.

- 4903.6 The Administrative Plan incorporates by reference portions of title 14 of the DCMR, as follows:
- (a) Chapter 61– Admissions and Recertifications;
 - (b) Chapter 74 – Reasonable Accommodation Policies and Procedures;
 - (c) Chapter 83 – Rent and Housing Assistance Payments;
 - (d) Chapter 85 – Housing Choice Voucher Program: Participant Moves;
 - (e) Chapter 89 – Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program;
 - (f) Chapter 92 – Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP); and
 - (g)
 - (h) Chapter 93 – Partnership Program for Affordable Housing.
- 4903.7 To the extent that other chapters of title 14 of the DCMR regulate areas relating to the HCVP, the Administrative Plan shall control unless otherwise indicated by the Administrative Plan.
- 4903.8 If other chapters of title 14 of the DCMR regulate areas that apply to HCVP where the Administrative Plan is silent, those regulations shall control.
- 4903.9 Pursuant to D.C. Official Code § 6-227(c) (2008 Repl.), this Administrative Plan applies to locally funded programs except to the extent that:
- (a) Such program has unique rules and procedures for its administration; and
 - (b) The Administrative Plan is inconsistent with any of the unique rules and procedures or applicable local or federal regulations.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7858 (June 29, 2012).

4904 VETERANS AFFAIRS SUPPORTIVE HOUSING – SPECIAL PROGRAM RULES

- 4904.1 Veterans Affairs Supportive Housing (VASH) vouchers are generally administered in accordance with the HCVP tenant-based rental assistance regulations set forth at 24 C.F.R. § 982, the DCMR, and this Administrative Plan.
- 4904.2 To be HUD-VASH eligible, a family must include at least one homeless veteran. Section 8(o)(19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f(o)(19) (2006) requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with treatment of these disorders required as a condition of receipt of HUD-VASH assistance. This requirement shall be waived for the VASH program.
- 4904.3 HUD has prescribed additional operating requirements for this program which DCHA shall follow. Those additional requirements can be found in Department of Housing and Urban Development, *Section 8 Housing Choice Vouchers: Implementation of the HUD-VA Supportive Housing Program*, Docket No. FR-5211-N-01.
- 4904.4 Pursuant to the guidance issued by HUD, if DCHA recommends a VASH participant for termination, DCHA may first consult with the VASH participant's case manager prior to terminating to discuss the reasons for terminating and discuss whether termination can be avoided.
- 4904.5 If HUD waives or specifies alternative requirements in connection with the VASH Program, DCHA shall incorporate these changes in the administration of the VASH Program where applicable.
- 4904.6 Upon turnover, HUD-VASH vouchers shall be issued to eligible families as identified by the Veterans Affairs Medical Center (VAMC).
- 4904.7 If a HUD-VASH voucher participant no longer requires case management by VAMC, he or she may qualify to receive a voucher under the regular HCVP. DCHA has allotted a certain number of vouchers specifically for veterans in this situation.
- 4904.8 VAMC shall be responsible for maintaining lists of eligible veterans requesting a voucher who do not qualify for case management.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7860 (June 29, 2012).

4905 MODERATE REHABILITATION

4905.1 The following provisions of the Administrative Plan shall not apply to the Moderate Rehabilitation program, as defined at 24 C.F.R. § 882:

- (a) 14 DCMR chapter 52 – Briefing of Families and Issuance of Vouchers;
- (b) 14 DCMR § 5103 - Mandatory Social Security Numbers;
- (c) 14 DCMR § 5107 - Family Consent to Release of Information;
- (d) 14 DCMR chapter 55 - Portability; and
- (e) 14 DCMR chapter 85 – Housing Choice Voucher Program: Participant Moves.

4905.2 The following annual and special rent adjustments policies shall apply:

- (a) DCHA shall adjust the Contract Rent upon receipt of a revised Contract Rent schedule from the owner, provided that each unit is in decent, safe, and sanitary condition and that the owner is otherwise in compliance with the terms of the Lease and HUD Tenancy Addendum;
- (b) The Annual Adjustment Factors which HUD publishes shall be utilized in calculating the Family's rent. On or after each annual anniversary date of the Contract, the Contract Rent may be adjusted in accordance with HUD procedures, effective for the month following the submittal by the Owner of a revised schedule of Contract Rents. The changes in rent as a result of the adjustment cannot exceed the amount established by multiplying the Annual Adjustment Factor by the base rents;
- (c) Approved rent adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units;
- (d) The participant's Security Deposit shall be the lesser of the Total Tenant Payment (TTP) or fifty dollars (\$50), which is the maximum permissible security deposit;
- (e) DHCA shall pay vacancy claims for up to sixty (60) Days at eighty percent (80%) of the Housing Assistance Payment (HAP) of the previous tenant; and
- (f) DCHA does not pay any claims for damages.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7861 (June 29, 2012).

4906 FAIR HOUSING POLICY

- 4906.1 DCHA shall comply fully with all federal, state, and local nondiscrimination laws in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.
- 4906.2 Specifically, DCHA shall not on account of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, status as a victim of an intrafamily offense, or place of residence or business deny any Family or individual the opportunity to apply for or receive assistance under HUD's Section 8 Housing Voucher Program within the requirements of the HUD regulations and the D.C. Human Rights Act.
- 4906.3 To further its commitment to full compliance with applicable civil rights laws, DCHA shall provide information to participants regarding discrimination and any recourse available to them should they feel they have been the victim of discrimination on one (1) or more protected grounds. Such information shall be made available during the Family briefing session and all applicable Fair Housing Information and Discrimination Complaint Forms shall be made a part of the briefing packet.
- 4906.4 DCHA subscribes to HUD's "open-housing" policy and, as such, shall maintain lists of available housing submitted by owners and in all neighborhoods within DCHA's jurisdiction to ensure "greater mobility and housing choice" to low-income households that DCHA serves.
- 4906.5 DCHA shall review and update its Equal Opportunity Housing Plan annually to ensure that these objectives are being met.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7862 (June 29, 2012).

4907 PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

- 4907.1 In certain circumstances, as further explained below, applicants or participants may be afforded additional protections from HCVP requirements and policies under the Violence Against Women Act (VAWA). DCHA shall comply with the terms of VAWA in administration of the HCVP.
- 4907.2 If a Family composition changes due to a member of the assisted Family engaging in criminal acts of physical violence against one or more other Family members or other people and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.
- 4907.3 In making its decision as to who retains assistance, DCHA shall consider all credible evidence, including, but not limited to, a signed certification, HUD Form-50066, or other documentation of abuse submitted to DCHA by the victim in accordance with VAWA.
- 4907.4 Pursuant to 24 C.F.R. § 5.2005(c) the denial of continued HCVP assistance to a Family member who engages in criminal acts of violence against Family members or others shall be considered a form of termination of the individual Family member. Should DCHA choose to exercise this authority, it shall follow the same procedures as described in chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual as it would when terminating the assistance of an entire Family.
- 4907.5 Pursuant to 24 C.F.R. § 5.2005, criminal activity directly related to intrafamily violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the tenant or immediate family member of the tenant is the victim.
- 4907.6 Notwithstanding § 4907.5, an owner may still evict a tenant for a lease violation unrelated to domestic violence, provided that the owner does not subject such a tenant to a more demanding standard than other tenants in making the determination whether to evict or terminate the tenancy.
- 4907.7 A victim of domestic violence, sexual violence, dating violence, or stalking who is absent for more than one hundred twenty (120) days may still be considered a Family member based on documentation that the victim is expected to return to the Family in a reasonable time if the victim provides DCHA documentation from a social worker, police officer, shelter, or other qualified agency regarding the incident or incidences of domestic violence and current housing arrangements for the applicant Family.

- 4907.8 If a Family or Family member participant who has been a victim of domestic violence, dating violence, or stalking by an individual, the participant may port to another PHA jurisdiction in violation of the lease as explained in chapter 55 of this title of the DCMR so long as the Family has complied with all other obligations.
- 4907.9 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, sexual assault, or an intrafamily offense moves in violation of the lease, DCHA shall not terminate assistance if the move was related to the act.
- 4907.10 A Family may document an incident or incidences of domestic violence, dating violence, or stalking as follows:
- (a) The HUD-approved certification HUD Form-50066;
 - (b) Federal, state, tribal, territorial, or local police record;
 - (c) Documentation signed by an employee, agent, or volunteer of a victim service provider or an attorney or medical provider from whom the victim has sought assistance in the situation; or
 - (d) Other acceptable documentation in order to verify the Family's claim of domestic violence, sexual violence, dating violence, or stalking.
- 4907.11 DCHA shall keep such information confidential in accordance with VAWA and its implementing regulations.
- 4907.12 If DCHA receives conflicting certification documents of domestic violence from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DCHA may determine which Family member is the true victim by requiring third-party documentation in accordance with VAWA and its implementing regulations.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7862 (June 29, 2012).

4908 DECONCENTRATION OF POVERTY

- 4908.1 DCHA encourages owners of decent, safe, and sanitary housing units to lease to Housing Choice Voucher families by encouraging program participation by owners of units located outside areas of poverty or minority concentration.

- 4908.2 DCHA encourages program participation by owners of units in low poverty areas by initiating personal contact with owners and managers by conducting formal and informal discussions and meetings to encourage participation of owners of units located outside areas of poverty or minority concentration.

- 4908.3 DCHA shall periodically evaluate the geographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. DCHA shall hold briefings for those owners who were identified as owners of units within these targeted areas.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7864 (June 29, 2012).

4909 OWNER OUTREACH

- 4909.1 DCHA issues invitations to owners as needed to make dwelling units available for leasing by eligible families in accordance with the Equal Opportunity Housing Plan. DCHA welcomes the continuous participation of owners of decent, safe, and sanitary housing units.
- 4909.2 DCHA shall maintain a list of interested owners and their properties which are available for HCVP. As inquiries from prospective new owners are received, program staff records the necessary information on units and shall make such information available to prospective participants upon request.
- 4909.3 Owner meetings with HCVP staff shall be held periodically to maintain a positive relationship and to provide owners further knowledge regarding Program rules and operations.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7864 (June 29, 2012).

4910 FAMILY OUTREACH

4910.1 DCHA continues to publicize and disseminate information, as needed, concerning the availability and nature of housing assistance for very low income families. Upon execution of an Annual Contributions Contract (ACC) for additional units, DCHA shall make known to the public through publication in a newspaper of general circulation, minority media, and other suitable means the availability and nature of housing assistance for very low income families, unless application taking has been suspended according to HUD regulations or there is a sufficient number of families on DCHA's waiting list that advertising would not be necessary.

4910.2 The Notice to the public pursuant to § 4910.1 shall:

- (a) Advise families that applications shall be taken at the Client Placement Division;
- (b) Briefly describe the Housing Choice Voucher program; and
- (c) State that applicants for Public Housing may also apply for the HCVP and shall not lose their place on the Public Housing waiting list.

4910.3 When notice to the public is required per § 4910.1, DCHA shall also distribute fact sheets to the broadcasting media in order to reach persons who cannot read. DCHA shall also make personal contacts with the news media and with community service organizations.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7865 (June 29, 2012).

4911 PRIVACY RIGHTS

4911.1 In conjunction with the HUD Form-50058, applicant and participant families shall be required to sign the Federal Privacy Act Statement, which states under what conditions HUD will release Family and owner information.

4911.2 DCHA shall only release information to third parties under one or more of the following circumstances:

- (a) With the signed and written consent of the Head of Household;
- (b) To HUD or other Housing agencies on amounts owed to DCHA for claims paid and not reimbursed by a participant or landlord regardless of whether there is a repayment agreement; or
- (c) As permitted or required by law.

SOURCE: Final Rulemaking published at 59 DCR 7856, 7865 (June 29, 2012).

**5100 ELIGIBILITY CONSIDERATIONS FOR HOUSING CHOICE
VOUCHER PROGRAM APPLICANTS**

- 5100.1 When applicable, the policies for admission to the HCVP shall be governed by chapter 61 of this title of the DCMR.
- 5100.2 Once an applicant is determined to be eligible to receive a Voucher, the provisions in this chapter shall apply.
- 5100.3 Once a Voucher has been issued and the Housing Assistance Payment (HAP) contract and Lease have been executed, the applicant Family is then considered a participant in the Program.

SOURCE: Final Rulemaking published at 59 DCR 7867 (June 29, 2012).

5101 FAMILY COMPOSITION CHANGES PRIOR TO VOUCHER ISSUANCE

5101.1 DCHA shall only consider an applicant Family's request to add an adult to the Family composition under the following circumstances:

- (a) Marriage;
- (b) If the adult is to be added as a live-in aide; or
- (c) As a reasonable accommodation.

5101.2 DCHA shall only consider an applicant Family's request to add a Family member if one (1) of the following documents is provided for verification:

- (a) Birth certificate;
- (b) Marriage certificate or record of domestic partnership;
- (c) Approved reasonable accommodation request;
- (d) Court order (guardianship, foster care, custodial agreements); or
- (e) Adoption order.

5101.3 When an applicant Family on the HCVP waiting list breaks up into two otherwise eligible families, only one of the families may retain the original application date. Other Family members may make a new application with a new application date if the waiting list is open.

5101.4 DCHA shall determine which applicant Family retains their placement on the waiting list on a case by case basis, taking into consideration several factors, including but not limited to:

- (a) The Head of Household listed on the original application;
- (b) If a court determines the disposition of property between members of the applicant Family in a divorce or separation under a settlement or judicial decree, DCHA is bound by the court's determination of which Family members maintains its position on the waiting list;
- (c) The interest of any minor children, including custody arrangements;
- (d) The interest of any ill, elderly, or disabled Family members; and
- (e) Any possible risks to Family members as a result of domestic violence, sexual violence, dating violence, stalking, or criminal activity.

- 5101.5 DCHA shall retain appropriate supporting documentation in the applicant Family's file as to why the decision was made.
- 5101.6 If the Head of Household on the original application does not retain their placement on the waiting list they shall be informed in writing of the decision and their rights under chapter 89 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7867 (June 29, 2012).

5102 CITIZEN OR ELIGIBLE IMMIGRATION STATUS

- 5102.1 In order to be determined eligible for the HCVP, HUD requires each Family member to affirm, via a written declaration, whether the individual is a United States (U.S.) citizen, U.S. national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status.
- 5102.2 Those that elect not to declare their status are considered to be ineligible noncitizens.
- 5102.3 For U.S. citizens, U.S. nationals, and eligible noncitizens the declaration shall be signed personally by the Head of Household, Spouse, and any other Family member eighteen (18) years of age or older, and by a parent or guardian for minors. The Family shall identify in writing any Family members who elect not to contend immigration status.
- 5102.4 No declaration is required for live-in aides, foster children, or adult wards.
- 5102.5 Family members who declare U.S. citizenship or U.S. national status shall be required to provide documentation for verification purposes.
- 5102.6 Housing assistance shall be available to eligible noncitizens who meet the conditions as described in 24 C.F.R. § 5.506(a)(2). The Family member declaring eligible noncitizen status shall sign a verification consent form and cooperate with DCHA efforts to verify his or her immigration status. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the Family began receiving HUD-funded assistance.
- 5102.7 Citizens of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States (FAS), are eligible for housing assistance under the Compacts of Free Association between the U.S. Government and the Governments of the FAS, Pub. L. 106-504, § 141 (2000).
- 5102.8 Those non-citizens who do not wish to declare their immigration status are required to have their names listed on a non-contending Family members listing, signed by the Head of Household (regardless of citizenship status), indicating their ineligible immigration status.
- 5102.9 DCHA is not required to verify a Family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).
- 5102.10 Providing housing assistance to noncitizen students is prohibited. If the Head of Household, Spouse, and minor children only have immigration status for the

purposes of educational pursuits, assistance shall not be provided and applications for assistance shall be denied or participation shall be terminated.

- 5102.11 A Family is eligible for assistance as long as at least one (1) member is a U.S. citizen, U.S. national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered “mixed families.” Such families shall be given notice that their assistance will be prorated and that they may request an informal hearing under chapter 89 of this title of the DCMR if they contest this determination.
- 5102.12 DCHA shall not provide assistance to a Family before the verification of eligibility of all Family members.
- 5102.13 When DCHA determines that an applicant or participant Family does not include any U.S. citizens, U.S. nationals, or eligible noncitizens, following the verification process, the Family shall be sent a written notice within ten (10) business days of the determination.

The notice of denial or termination of assistance for noncitizens shall advise the Family:

- (a) That assistance shall be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
- (b) That the Family may be eligible for proration of assistance;
- (c) In the case of a participant Family, the criteria and procedures for obtaining relief under the provisions for preservation of families as contained in 24 C.F.R. §§ 5.514 and 5.518;
- (d) That the Family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;
- (e) That the Family has a right to request an informal hearing with DCHA under chapter 89 of this title of the DCMR either upon completion of the USCIS appeal or in lieu of the USCIS appeal; or
- (f) For applicant families, that assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

SOURCE: Final Rulemaking published at 59 DCR 7867, 7868 (June 29, 2012).

5103 MANDATORY SOCIAL SECURITY NUMBERS

- 5103.1 Each Family member claiming U.S. citizenship or eligible immigration status shall be required to disclose and verify a Social Security Number (SSN) prior to admission.
- 5103.2 Applicant families who cannot disclose and verify SSNs for all Family members claiming citizenship or eligible immigration status shall be allowed to retain their position on the waiting list. A Family shall not be admitted into the HCVP until all Family members claiming U.S. citizenship or eligible immigration status have disclosed and verified SSNs.
- 5103.3 U.S. citizens and lawfully present noncitizens who state that they have not been assigned a SSN by the Social Security Administration (SSA) shall make such declaration in writing and under penalties of perjury to DCHA. DCHA shall maintain the declaration in the participant file until a SSN is assigned.
- 5103.4 Applicant families who will receive assistance under the Moderate Rehabilitation Single Room Occupancy Program shall have ninety (90) days after admission into the Program to provide appropriate documentation of their SSN.
- 5103.5 For families currently participating, the Family shall be required to disclose and verify SSNs for all Family members claiming U.S. citizenship or eligible immigration status at the time of their next interim recertification or regular recertification.
- 5103.6 The only HUD-approved forms of verification of Social Security Numbers are:
- (a) An original SSN card issued by SSA;
 - (b) An original SSA-issued document that contains the name and SSN of the individual; or
 - (c) An original document issued by a federal, state, or local government agency that contains the name and SSN of the individual.
- 5103.7 DCHA shall use an Alternate ID (ALTD ID) to generate a unique identifier for those individuals who do not have or unable to disclose a SSN.

SOURCE: Final Rulemaking published at 59 DCR 7867, 7871 (June 29, 2012).

5104 FAMILY CONSENT TO RELEASE OF INFORMATION

5104.1 In order for DCHA to determine an applicant Family's eligibility, it is necessary to obtain information from third parties. The following rules apply:

- (a) The Head of Household, Spouse, and each adult Family member, regardless of age, shall sign HUD Form-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the Family's eligibility and level of assistance; and
- (b) DCHA shall deny admission to the Program if any adult member of the applicant Family fails to sign and submit the consent forms for obtaining information and the Head of Household fails to remove that person from the Family composition.

SOURCE: Final Rulemaking published at 59 DCR 7867, 7871 (June 29, 2012).

5105 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

- 5105.1 This section shall only apply to students who are seeking HCVP assistance on their own, as a Head of Household, separately from their parents. It shall not apply to a student who is a member of a Family currently participating in the Program or a student who is a member of an applicant Family
- 5105.2 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, and does not have a dependent child, the student's eligibility shall be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be determined income eligible in order for the student to receive HCVP assistance. If, however, a student in these circumstances is determined "independent" from his or her parents in accordance with § 5105.3, the income of the student's parents shall not be considered in determining the student's eligibility.
- 5105.3 DCHA shall consider a student "independent" from his or her parents and the parents' income shall not be considered when determining the student's eligibility if the following four (4) criteria are met:
- (a) The individual is of legal contract age under District of Columbia law;
 - (b) The individual has established a household separate from his or her parents for at least one (1) year prior to applying for HCVP assistance;
 - (c) The individual meets the U.S. Department of Education's definition of an independent student as defined in section of the Higher Education Act of 1965, 20 U.S.C. § 1087vv(d) (2006); or
 - (d) The individual was not claimed as a dependent by his or her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax returns.
- 5105.4 The student must provide certification of the amount of financial assistance that will be provided by his or her parents. This certification shall be signed by the individual(s) providing the support and shall be submitted even if no assistance is being provided. Financial assistance from parents shall be considered as income when making the determination of eligibility and Total Tenant Payment (TTP).
- 5105.5 For any student who is subject to these restrictions and who does not satisfy the definition of an independent student in this section, DCHA shall determine whether the student's parents are income eligible for the Program so as to allow the student to become a HCVP participant as follows:

- (a) If the student's parents are married and living together, DCHA shall obtain a joint income declaration and certification of joint income from the parents;
- (b) If the student's parent is widowed or single, DCHA shall obtain an income declaration and certification of income from that parent;
- (c) If the student's parents are divorced or separated, DCHA shall obtain an income declaration and certification of income from each parent;
- (d) If the student has been living with one (1) of his or her parents and has not had contact with or does not know where to contact his or her other parent, the student shall submit a certification under penalty of perjury, describing the circumstances and stating that the student does not receive financial assistance from the other parent. DCHA shall then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact;
- (e) In determining the income eligibility of the student's parents, DCHA shall use the PHA income limits for the jurisdiction in which the parents live; or
- (f) Both students and parents shall meet the low-income limit.

5105.6 If DCHA determines that the student, the student's parents, if applicable, or the student's Family is not eligible, DCHA shall send a notice of denial in accordance with the policies in chapter 89 of this title of the DCMR.

5105.7 The following definitions shall only apply to student eligibility determinations under § 5105:

Dependent Child - a dependent child of a student enrolled in an institution of higher education. The dependent child shall also meet the definition of dependent, which states that the dependent shall be a member of the assisted Family, other than the Head of Household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and adult wards are not considered dependents.

Institution of Higher Education - as defined in section 102 of the Higher Education Act of 1965, 20 U.S.C. § 1002 (2006).

Parents - biological or adoptive parents, stepparents as long as they are currently married to the biological or adoptive parent, and guardians (such as grandparents, aunt or uncle, and godparents).

Veteran - a person who served in the active military, Naval, or Air service and who was discharged or released from such service under conditions other than dishonorable.

SOURCE: Final Rulemaking published at 59 DCR 7867, 7872 (June 29, 2012).

5201 BRIEFING

- 5201.1 The purpose of the briefing is to fully inform the applicant Family about the HCVP so that the applicant Family will be able to discuss it with participating owners. Applicants shall be informed of the differences between the Housing Choice Voucher programs.
- 5201.2 DCHA shall give each Family accepted into the Program an oral briefing and provide the Family with a briefing packet containing written information about the Program.
- 5201.3 Families may be briefed individually or in groups. At the briefing, DCHA shall ensure effective communication in accordance with the requirements of relevant sections of the following federal and local statutes:
- (a) Section 504 of the Rehabilitation Act (29 U.S.C. §§ 701, *et seq.*);
 - (b) The D.C. Language Access Act (D.C. Official Code §§ 2-1931, *et seq.* (2007 Repl.));
 - (c) The Fair Housing Act (42 U.S.C. §§ 3601, *et seq.*);
 - (d) The D.C. Human Rights Act (D.C. Official Code §§ 2-1401.01, *et seq.* (2011 Supp.)); and
 - (e) The Americans with Disabilities Act (42 U.S.C. §§ 12101, *et seq.*).
- 5201.4 DCHA shall ensure that the briefing site is accessible to individuals with disabilities. Applicants with disabilities may request that DCHA provide other reasonable accommodations when conducting briefings.
- 5201.5 The Head of Household shall be required to attend the briefing. DCHA will encourage other adult Family members to participate in the briefing. All adult Family members are responsible for complying with the Family Obligations section in chapter 58 of this title of the DCMR even if they do not attend the briefing.
- 5201.6 Families that attend group briefings and still need individual assistance shall be referred to an appropriate DCHA staff person.

SOURCE: Final Rulemaking published at 59 DCR 7875 (June 29, 2012).

5202 NOTIFICATION AND ATTENDANCE

- 5202.1 HCVP shall notify Families in writing, by first class mail or hand delivery, of their eligibility for assistance at the time that they are invited to attend a briefing. The notice shall identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.
- 5202.2 If the notice is returned by the U.S. Postal Service with no forwarding address, the applicant Family shall be denied and their name shall not be placed back on the waiting list in accordance with § 6103, unless the applicant Family can show that the mail was not received due to error by the Postal Service or DCHA. DCHA shall document when a briefing notice is mailed to the address on record and keep the information in the applicant Family's file.
- 5202.3 Applicants who fail to attend a scheduled briefing shall automatically be scheduled for another briefing in a letter by first class mail. Applicants who fail to attend two (2) scheduled briefings, without DCHA approval, shall be denied assistance.
- 5202.4 An applicant Family that is denied for assistance for failing to attend the Family briefing shall be notified in writing by first class mail and the notice shall inform the Family of their right to an informal hearing under chapter 89 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7876 (June 29, 2012).

5203 ORAL BRIEFING

5203.1 Each briefing shall provide information on the following subjects:

- (a) How the Housing Choice Voucher Program works;
- (b) Family and owner responsibilities;
- (c) Where the Family can lease a unit, including renting a unit inside or outside DCHA's jurisdiction;
- (d) For families eligible under portability, an explanation of portability; and
- (e) An explanation of the advantages of moving to areas outside of high-poverty concentrations.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7876 (June 29, 2012).

5204 BRIEFING PACKET

- 5204.1 Documents and information provided in the briefing packet shall include the following:
- (a) The term of the Voucher and DCHA's policies on any extensions of the term;
 - (b) A description of the method used to calculate the Housing Assistance Payment (HAP) for a Family, including:
 - (1) How DCHA determines the payment standard for a Family;
 - (2) How DCHA determines Total Tenant Payment (TTP) for a Family; and
 - (3) Information on the payment standard and utility allowance schedule;
 - (c) An explanation of how DCHA determines the maximum allowable rent for an assisted unit;
 - (d) Where the Family may lease a unit;
 - (e) The HUD-required Lease Addendum which shall be included in the lease.
 - (f) The form the Family shall use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy;
 - (g) A statement of DCHA policy on providing information about families to prospective owners;
 - (h) DCHA subsidy standards including when and how exceptions are made;
 - (i) The HUD brochure on how to select a unit;
 - (j) The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*;
 - (k) Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form;
 - (l) Information on an applicant or participant's rights under VAWA, including the right to confidentiality and the exceptions;

- (m) Information on how to access a web based list of landlords willing to lease to assisted families and other resources to assist with housing search;
- (n) Notice that if the Family includes a person with disabilities, the Family may request a list of available accessible units known to DCHA;
- (o) The Family Obligations under the Program;
- (p) The grounds on which DCHA may terminate assistance for a Family because of Family action or failure to act;
- (q) DCHA informal hearing procedures including when DCHA is required to offer a Family the opportunity for an informal hearing and how to request a hearing;
- (r) Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within the District of Columbia and in its neighboring jurisdictions;
- (s) Information about the characteristics of areas outside of poverty or minority concentration, including job opportunities, schools, transportation, and other services;
- (t) An explanation of how portability works, including a list of portability contact persons for neighboring PHA's including names, addresses, and telephone numbers; and
- (u) The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a Family shall avoid and the penalties for program abuse.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7877 (June 29, 2012).

5205 DETERMINATION OF VOUCHER SIZE

- 5205.1 The Voucher size is used to determine the maximum rent subsidy for a Family assisted in the HCVP.
- 5205.2 The following requirements apply when DCHA determines Voucher size under the subsidy standards:
- (a) The subsidy standards shall provide for the lowest number of bedrooms needed to house a Family without overcrowding;
 - (b) The subsidy standards shall be consistent with space requirements under the Housing Quality Standards contained in § 5321;
 - (c) The subsidy standards shall be applied consistently for all families of like size and composition;
 - (d) A child who is temporarily away from the home because of placement in foster care is considered a member of the Family in determining the Voucher size;
 - (e) A live-in aide, approved by DCHA, shall be counted in determining the Voucher size;
 - (f) Foster children and adult wards shall be included in the determination of the Voucher size; and
 - (g) The Voucher size for any Family consisting of a single person shall only be a one (1)-bedroom.
- 5205.3 DCHA shall assign one (1)-bedroom for the Head of Household and/or a Spouse and an additional bedroom for each two (2) persons within the household with the following exceptions:
- (a) Children of the opposite gender shall be allocated separate bedrooms once one of the children is over the age of five (5) or if one of the children will turn five (5) within the initial term of the voucher.
 - (b) Children of the same gender shall be allocated one (1) bedroom. Beginning at age thirteen (13), if there is a difference of five (5) years or more, children of the same gender shall have separate bedrooms.
 - (c) Adult Family members shall not be allocated a bedroom with a minor.
 - (d) A bedroom shall not be assigned to an unborn child; and

- (e) A live-in aide approved by DCHA shall be allocated an individual bedroom.

5205.4 Considerations to persons attending school away from home shall be in accordance with DCHA policies regarding absent Family members under § 5319.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7878 (June 29, 2012).

5206 EXCEPTIONS TO VOUCHER SIZE

- 5206.1 In determining the Voucher size for a particular Family, DCHA may grant an exception to the subsidy standards set forth in § 5205 if DCHA determines that the exception is justified by the age, sex, gender identity, health, or disability of one (1) or more of the Family members.
- 5206.2 For a single person who is not elderly, disabled, or a remaining Family member as explained in § 5317.8, an exception cannot override the regulatory limit of a one (1) bedroom unit.
- 5206.3 The Family shall request any exceptions to the Voucher sizes in writing to DCHA. The request shall explain the need or justification for a larger Family unit size, and shall include appropriate documentation. Family requests based on health-related reasons shall be verified by a knowledgeable professional source (such as a doctor or health professional).
- 5206.4 DCHA shall notify the Family of its determination within thirty (30) days of receiving the Family's request for an exception. If a participant Family's request is denied, the notice shall inform the Family of their right to an informal hearing under 89 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7880 (June 29, 2012).

5207 LIVE-IN AIDES GUIDELINES FOR PARTICIPANTS

- 5207.1 DCHA shall approve a live-in aide if needed as a reasonable accommodation, in accordance with chapters 49 and 74 of this title of the DCMR, to make the unit and Program accessible to and usable by a Family member who is elderly, near-elderly, or who has disabilities.
- 5207.2 DCHA must approve any person that the Family identifies as a live-in aide. A Family's request for a live-in aide shall be made in writing, and a specific person shall be identified as the requested live-in aide.
- 5207.3 If the Family member requesting a live-in aide is unable to submit the request in writing, DCHA shall assist with preparing the request. Family members who make an oral request for a live-in aide shall be instructed that the request must be written and that HCVP staff will assist in reducing the request to writing.
- 5207.4 The Family and live-in aide shall be required to submit a certification stating that the live-in aide is:
- (a) Not obligated for the financial support of the Family member(s) needing the care; and
 - (b) Would not be living in the unit except to provide the necessary supportive services.
- 5207.5 Verification shall be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, stating that the live-in aide would provide necessary support services for an elderly, near-elderly, or disabled Family member so that the unit and the Program are accessible to the family member.
- 5207.6 The person identified by the Family as the desired live-in aide shall be required to submit to a criminal background screening prior to DCHA's final determination.
- 5207.7 DCHA shall not approve a live-in aide or may withdraw such approval if:
- (a) The person is a current member of the assisted Family;
 - (b) The Family fails to identify a specific person they wish to designate as a live-in aide;
 - (c) The person is an occasional, intermittent, or rotating care giver;
 - (d) The person is a caregiver who only spends the night;
 - (e) The person has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

- (f) The person has committed any drug-related criminal activity or violent criminal activity; or
- (g) The person currently owes rent or other amounts to DCHA or to another PHA in connection with Section 8 or Public Housing assistance under the United States Housing Act of 1937, 42 U.S.C. § 1437 (1976).

- 5207.8 Once DCHA receives a request for a live-in aide, including all required documentation related to the request, DCHA shall notify the Family of its decision in writing within thirty (30) days.
- 5207.9 If a Family's request for a live-in aide is denied, the notice shall inform the Family of the reason for the denial and of the right to an informal hearing pursuant to chapter 89 of this title of the DCMR.
- 5207.10 An applicant or participant Family shall have the opportunity to receive an informal review when DCHA denies the appointment of a specific person as a live-in aide through the Client Placement Division.
- 5207.11 Once the live-in aide has been approved, if DCHA has reason to believe that circumstances have changed such the need for the live-in aide no longer exists, DCHA may require the Family to submit a new written request, subject to DCHA verification.
- 5207.12 The live-in aide shall not be considered a remaining Family member, shall not be entitled to the Voucher, and shall not have any rights under chapter 89 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7880 (June 29, 2012).

5208 VOUCHER ISSUANCE

- 5208.1 After an applicant Family has been deemed eligible, selected from the waiting list, and attended an oral briefing, DCHA shall issue a Voucher to the Family.
- 5208.3 The initial term of the Voucher shall be one hundred eighty (180) calendar days. The Family shall submit HUD Form-52517, Request for Tenancy Approval (RTA) or RTA package, within the one hundred eighty (180) calendar days.
- 5208.4 Upon the Family's submission of a RTA package and proposed lease, the initial term of the Voucher shall be suspended until the unit passes or fails Housing Quality Standards (HQS) inspection.
- 5208.5 DCHA shall document the suspension of the Voucher term following the submission of an RTA package and shall provide the Family written notice of suspension by first class mail. The notice shall include the specific date that the suspension takes effect. If DCHA subsequently lifts the suspension of the Voucher because the unit is not approved, DCHA shall provide written notice to the tenant by first class mail and specify the new expiration date of the voucher term.
- 5208.6 Extensions to the initial term of a Voucher shall be granted for a period necessary to reasonably accommodate a Family member whose disability has interfered with his or her ability to find housing, in accordance with federal and local law.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7882 (June 29, 2012).

5209**EXPIRATION OF THE INITIAL VOUCHER TERM**

- 5209.1 If a Family's voucher term or extension expires before the Family has submitted an approved RTA, the voucher shall be deemed to have expired and DCHA shall notify the Family in writing that the voucher term has expired and the Family may reapply for HCVP assistance in accordance with chapter 76 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7882 (June 29, 2012).

5210 CHANGES BETWEEN VOUCHER ISSUANCE AND LEASE-UP

- 5210.1 In the circumstance that a Family has been determined to be eligible for the Program and there is a reported change in income or other circumstances and the change occurs after the Voucher was issued but before the effective date the lease, the Family shall continue to be considered eligible unless the change results in a situation where the Family can afford to make full monthly rent payments.
- 5210.2 DCHA shall not honor requests to add Family members to the Family composition during the time between when the Voucher is issued and the effective date of the lease, with the exception of births, adoptions or additions of foster or kinship care children to the household which occur during this time.
- 5210.3 If a Family misrepresents any Family circumstance or any information that would result in denial or termination from the Program, DCHA may determine that the Family is no longer eligible before the effective date of the lease or any time thereafter.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7883 (June 29, 2012).

5211 RESPONSIBILITY FOR LOCATING HOUSING

- 5211.1 Once DCHA issues a Voucher to a Family, it is the Family's responsibility to locate suitable housing that is within the Local Market Rent as determined by HUD, meets Housing Quality Standards requirements, and includes the minimum bedroom size requirements for units.
- 5211.2 DCHA shall maintain and update referral lists of owners who have called DCHA to list their available units. The list shall be made available to Voucher holders upon request.
- 5211.3 DCHA offers search counseling and assistance to families who are having difficulty locating appropriate housing within the Voucher term.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7883 (June 29, 2012).

5212 REQUEST FOR TENANCY APPROVAL

5212.1 The owner and the Family shall submit the following documents to DCHA:

- (a) Completed RTA – HUD Form-52517;
- (b) Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum;
- (c) Ownership (recorded deed);
- (d) If a management agent is involved, a management agreement;
- (e) A lease that will be used for the lease-up;
- (f) If the Family is moving from one assisted unit to another and was responsible for a water bill, a recent copy (within last 30 days) of the water bill provided showing a balance of fifty dollars (\$50) or less;
- (g) Executed Lead-Based Paint notice;
- (h) HUD Authorization for Release of Information/Privacy Act Statement(s) (executed by all adult household members);
- (i) Completed W-9 Forms; and
- (j) The address for the Owner(s) current home or place of business. Post Office Box addresses are not acceptable.

5212.2 After the documents listed in § 5212.1 have been submitted, DCHA shall verify the following:

- (a) All required signatures are executed on the RTA;
- (b) The Family's Voucher has not expired;
- (c) The Family is in good standing to move with continued assistance; and
- (d) The owner has requested a rent DCHA will approve.

5212.3 The owner may submit the RTA on behalf of the Family.

5212.4 The completed RTA shall be submitted as hard copies, in-person, or electronically to an authorized DCHA email address. DCHA shall provide a written receipt at that time.

- 5212.5 The Family may not submit, and DCHA shall not process, more than one (1) RTA at a time.
- 5212.6 When the Family submits the RTA, DCHA shall review the RTA for completeness. If the RTA is incomplete or missing signatures by the Family or owner, DCHA shall notify the Family and the owner of such deficiencies and provide assistance in completing, if necessary, as a reasonable accommodation.
- 5212.7 Missing information or missing documents shall only be accepted as hard copies, in-person, by mail, by fax, or electronically to an authorized DCHA email address.
- 5212.8 Because of the time sensitive nature of the tenancy approval process, DCHA shall attempt to communicate with the owner and Family by phone, fax, or email. DCHA shall use mail when the parties cannot be reached by phone, fax, or email.
- 5212.9 Once the RTA and proposed lease are approved, DCHA shall schedule an HQS inspection.
- 5212.10 After DCHA accepts an RTA, the time period of the Voucher shall be suspended if any of the following circumstances apply:
- (a) The Family is waiting for notification from DCHA that the lease is approved;
 - (b) The Family is waiting for DCHA to make a reasonable accommodation decision;
 - (c) Additional time is needed for the Family to locate suitable housing as a reasonable accommodation; or
 - (d) Prior to DCHA rejecting the unit for lease-up, the Family makes a reasonable accommodation request applicable to approval of such unit.
- 5212.11 If the unit is not approved, the expiration period of the Voucher shall resume on the date that DCHA notifies the Family to pick up the Voucher.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7883 (June 29, 2012).

5213 LEASE-UP PROCESS

- 5213.1 Upon successful submission of RTA package, DCHA shall schedule a Housing Quality Standards (HQS) inspection within four (4) weeks.
- 5213.2 An HQS Inspection must be completed prior to the Family occupying the unit. Under no circumstances shall DCHA begin payment until the unit passes an HQS inspection.
- 5213.3 Once the unit passes HQS inspection, DCHA shall complete all internal paperwork, including preparation of the HAP. Upon completion, DCHA shall call both the Family and the owner or landlord to coordinate execution of lease-up documents.
- 5213.4 The Family and the owner or landlord shall execute the lease, HAP Contract, and rent determination documents at the lease up, which may take place at DCHA's office.
- 5213.5 Once all documents are executed, DCHA shall release payment to the owner on its next payment cycle.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7885 (June 29, 2012).

5214 APPROVAL OF REQUEST FOR TENANCY

5214.1 Prior to approving the assisted tenancy and executing a HAP contract, DCHA shall ensure that all required actions and determinations have been completed. These actions include ensuring:

- (a) That the unit is eligible;
- (b) That the unit has been inspected by DCHA and meets the HQS;
- (c) That the lease offered by the owner is approvable and contains the following:
 - (1) The initial lease terms and the renewal term;
 - (2) Who is responsible for payment of utilities;
 - (3) The names of the occupants; and
 - (4) The required Tenancy Addendum;
- (d) That the rent to be charged by the owner for the unit is reasonable in accordance chapter 83 of this title of the DCMR;
- (e) Where the Family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the Family, that the share of rent to be paid by the Family does not exceed forty percent (40%) of the Family's monthly adjusted income;
- (f) That the owner is an eligible owner, has been neither disapproved by DCHA nor debarred by HUD, and has no prohibited conflicts of interest; and
- (g) That the unit is accessible when the tenant has a disability.

5214.2 DCHA shall complete its determination within ten (10) business days of receiving all required information listed in § 5212.

5214.3 If the terms of the RTA or the proposed lease are changed for any reason, including but not limited to negotiation with DCHA, DCHA shall obtain corrected copies of the RTA and proposed lease.

5214.4 Corrections to the RTA or the proposed lease shall only be accepted as hard copies, in person, by mail, by fax, or electronically to an authorized DCHA email address.

- 5214.5 If DCHA determines that the tenancy cannot be approved for any reason, the owner and the Family shall be notified in writing and given the opportunity to address any reasons for disapproval. DCHA's notice shall instruct the owner and Family of the steps that are necessary to approve the tenancy.
- 5214.6 Where the tenancy is not approved because the unit is ineligible, the Family shall continue to search for eligible housing within the new timeframe of the issued voucher. The expiration date of the voucher is suspended while DCHA makes its determination.
- 5214.7 If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), DCHA shall attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy shall be approved. If the owner is not willing to negotiate an approvable rent, the Family shall continue to search for eligible housing within the timeframe of the issued voucher.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7886 (June 29, 2012).

5215 SEPARATE AGREEMENTS

- 5215.1 Owners and tenants may execute agreements for services, appliances (other than for range and refrigerator), and other items outside those which are provided under the lease if the agreement is in writing and approved by DCHA.
- 5215.2 Any appliance, service, or other item which is routinely provided to nonsubsidized tenants as part of the lease (such as air conditioning, dishwasher, or garage) or are permanently installed in the unit cannot be put under separate agreement and shall be included in the lease. For there to be a separate agreement, the tenant shall have the option of not utilizing the service, appliance, or other item.
- 5215.3 DCHA is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.
- 5215.4 If the tenant and owner have come to an agreement on the amount of Charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they shall be allowed. Costs for seasonal items can be spread out over twelve (12) months.
- 5215.5 Copies of all separate agreements shall be provided to DCHA.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7887 (June 29, 2012).

5216 OWNER LEASE APPROVAL

- 5216.1 DCHA shall not review the owner's lease for compliance with state/local law. It is the owner's responsibility to comply with state/local law when leasing units on the owner's property.
- 5216.2 The assisted dwelling lease shall contain all of the required information as listed below:
- (a) The names of the owner and the tenant:
 - (b) The unit rented (address, apartment number, and any other information needed to identify the contract unit);
 - (c) The term of the lease (initial term and any provisions for renewal);
 - (d) The amount of the monthly rent to owner; and
 - (e) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the Family.
- 5216.3 The initial term of the assisted dwelling lease shall be for at least one (1) year. DCHA may approve a shorter initial lease term as a reasonable accommodation to the Family.
- 5216.4 This written lease is a contract between the tenant Family and the owner; DCHA is not a party to this contract.
- 5216.5 All provisions in the HUD-required Tenancy Addendum shall also be added word-for-word to the owner's standard lease form, for use with the assisted Family. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7888 (June 29, 2012).

5217 HOUSING ASSISTANCE PAYMENT CONTRACT EXECUTION

- 5217.1 Owners who have not previously participated in the HCVP shall attend a meeting with DCHA in which the terms of the Tenancy Addendum and the HAP contract shall be explained. DCHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCVP.
- 5217.2 The owner and the assisted Family shall execute the dwelling lease, and the owner shall provide a copy to DCHA with signatures. DCHA shall ensure that both the owner and the assisted Family receive copies of the dwelling lease.
- 5217.3 The owner and DCHA shall execute the HAP contract with notarized signatures. DCHA shall not execute the HAP contract until the owner has submitted IRS form W-9. DCHA shall ensure that the owner receives a copy of the executed HAP contract.

SOURCE: Final Rulemaking published at 59 DCR 7875, 7888 (June 29, 2012).

5300 INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT

5300.1 Once a participant is receiving assistance, the following regularly scheduled events shall occur;

- (a) Biennial recertification, in which income is calculated and total tenant payment is determined;
- (b) Interim recertifications when necessary; and
- (c) Annual Housing Quality inspections.

SOURCE: Final Rulemaking published at 59 DCR 7890 (June 29, 2012).

5301 ANNUAL INCOME

5301.1 For purposes of determining all forms of income for families who are applicants and participants in the HCVP, DCHA shall follow HUD requirements as enumerated in 24 C.F.R. § 5.601 through 24 C.F.R. § 5.609 and 24 C.F.R. § 5.659, as amended.

SOURCE: Final Rulemaking published at 59 DCR 7890 (June 29, 2012).

5302 UTILITY PAYMENTS AND REIMBURSEMENTS

5302.1 For purposes of determining payments by and utility reimbursements to families who are participants in the HCVP, DCHA shall follow HUD requirements as enumerated in 24 C.F.R. § 5.632 and 24 C.F.R. § 982.514, as amended.

SOURCE: Final Rulemaking published at 59 DCR 7890 (June 29, 2012).

5303 EARNED INCOME DISREGARD

5303.1 In accordance with its MTW designations, DCHA elects not to grant the Earned Income Disallowance for disabled families. DCHA has determined that the policies contained in § 5308 grant a comparable benefit and ensure that all households are rewarded for increasing their household income.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7891 (June 29, 2012).

5304 ALIMONY AND CHILD SUPPORT AS INCOME

- 5304.1 DCHA shall count court-awarded amounts for alimony and child support unless DCHA verifies that the payments have not been made in the last six (6) months.
- 5304.2 If the amounts received for child support or alimony are not received on a regular basis, DCHA shall anticipate income by performing an average of the last twelve (12) complete months. The average shall include months in which no payments were received and months in which lump sum amounts were received to catch up for prior missed payments.
- 5305.3 If the Family begins to receive child support or alimony payments at any time, the Family is obligated to report the change in accordance with § 5316 and § 5317.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7891 (June 29, 2012).

5305 GRANTS AND SCHOLARSHIPS AS INCOME

5305.1 For purposes of determining whether financial aid awards used for higher education shall be counted as income, DCHA shall follow 24 C.F.R. § 5.609, as amended.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7891 (June 29, 2012).

5306 ADJUSTED INCOME AND DETERMINATION OF RENT

5306.1 In the determination of adjusted income DCHA shall deduct from annual income the following deductions, as applicable to the Family:

- (a) Four hundred eighty dollars (\$480) for each Dependent;
- (b) Four hundred dollars (\$400) for any elderly Family or disabled Family;
- (c) A medical expense deduction as defined below in § 5307.2 for elderly and disabled families; and
- (d) A child care expense deduction, for a Family with any adult member who is working or is attending school on a full time basis, and has an eligible child.

5306.2 The DCHA Board of Commissioners periodically determines an additional medical deduction for each member of an elderly or disabled Family. A live-in aide shall not be given the medical deduction. This additional medical deduction is a fixed deduction for each member of the household who is sixty-two (62) years of age or older or is disabled. DCHA shall not verify whether the Family incurs the actual medical expenses or not.

5306.3 The DCHA Board of Commissioners periodically determines an additional dependent deduction for each eligible child who is twelve (12) or under, in the cases where DCHA has verified that an adult member is working or is attending school on a full time basis. This additional dependent deduction is a fixed deduction given to the Family for each qualifying child. DCHA does not verify whether the Family has an actual child care expense or not.

5306.4 The deduction pursuant to § 5306.3 shall be given for all children twelve (12) or under, including foster children, who are living in the assisted Family's household. In order to qualify for the deduction, the following must exist:

- (a) The Family shall identify the Family member(s) who are working or are in school full-time;
- (b) If the child care expense being claimed is to enable a Family member to further his or her education, the member shall be enrolled in school (academic or vocational) or participating in a formal training program. The Family member shall be required to be a full-time student in order to qualify for the deduction; and
- (c) Working shall mean any legal work activity (full or part-time) for which a Family member is compensated.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7891 (June 29, 2012).

5307 OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

- 5307.1 For purposes of calculating the Total Tenant Payment (TTP), DCHA shall follow HUD requirements as enumerated in 24 C.F.R. § 5.628, as amended.
- 5307.2 DCHA may establish a minimum rent as authorized by 24 C.F.R. § 5.628(a). If DCHA establishes a minimum rent, DCHA shall suspend and exempt families from minimum rent when a financial hardship exists.
- 5307.3 For the purposes of granting hardship exemptions from the minimum rent requirement, DCHA shall follow HUD requirements as enumerated in 24 C.F.R. § 5.630, as amended.
- 5307.4 Hardship exemptions shall be requested in writing by the Head of Household. If a participant requests assistance, DCHA shall assist the participant in reducing the request to writing.
- 5307.5 DCHA shall verify the hardship circumstances and respond in writing within ten (10) days of the receipt of the information verifying the hardship.
- 5307.6 Except where the Family has been granted a hardship exemption from the minimum rent, the amount that a Family pays for rent and utilities (the Family share) shall never be less than the Family's TTP but may be greater than the TTP depending on the rent charged and utility costs for the unit the Family selects.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7892 (June 29, 2012).

5308 DISTRICT OF COLUMBIA HOUSING AUTHORITY'S HOUSING ASSISTANCE PAYMENT

- 5308.1 DCHA shall pay a monthly Housing Assistance Payment (HAP) for a Family that is equal to the lower of:
- (a) The applicable payment standard for the Family minus the Family's TTP; or
 - (b) The gross rent for the Family's unit minus the TTP.
- 5308.2 The rent to the owner is the full rent that the owner is charging for the unit, as approved by DCHA, including any utilities the owner is providing under the lease. This is the Contract Rent.
- 5308.3 The gross rent represents the entire housing cost. It is calculated by adding the contract rent to the utility allowance for the unit. If all utilities are included, the contract rent and the gross rent shall be the same.
- 5308.4 The Family share of rent is any amount of DCHA approved contract rent that is not covered by HAP.
- 5308.5 If a Family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds DCHA's applicable payment standard:
- (a) The Family shall pay more than the TTP; and
 - (b) At initial occupancy DCHA may not approve the tenancy if it would require the Family share to exceed forty percent (40%) of the Family's monthly adjusted income.
- 5308.6 When the DCHA HAP for a Family exceeds the rent to owner, the Family is due a utility reimbursement. DCHA may pay the reimbursement to the Family or directly to the utility provider as enumerated in 24 C.F.R. § 5.632(b)(2). If all utilities are included in the contract rent, there shall be no utility allowance.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7893 (June 29, 2012).

5309 APPLYING PAYMENT STANDARDS

5309.1 For purposes of applying a payment standard to a family's unit, DCHA shall follow 24 C.F.R. §§ 982.503, *et. seq.*

SOURCE: Final Rulemaking published at 59 DCR 7890, 7894 (June 29, 2012).

5310 CHANGES IN FAMILY SHARE AND HOUSING ASSISTANCE PAYMENTS

5310.1 Changes in the Family’s TTP and the HAP payment shall be processed in accordance with the following:

- (a) The Family shall report within thirty (30) days any changes in income, Family composition, or other circumstances that may result in a change in the Family TTP;
- (b) If the Family reported in a timely manner:
 - (1) If the reported change results in an increase of the Family’s share of rent, the effective date of increase shall be the first of the month following a thirty (30) days’ notice of increase to the Family and landlord; or
 - (2) If the reported change results in a decrease of the Family’s share of rent, the effective date of the decrease shall be the first of the month after the change has been reported; or
- (c) If the Family failed to report the change in a timely manner:
 - (1) If the change results in an increase of the Family’s share of rent, the effective date shall be the first of the month following the change in Family income or composition; or
 - (2) If the change results in a decrease in the Family’s share of rent, then DCHA shall not apply the change retroactively and the effective date of the change shall be the first of the month following the Family’s report of the change.

5310.2 DCHA shall notify the owner and the Family of any changes in the Family share and HAP by mailing a notice that includes the new amount and effective date of the change in payment.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7894 (June 29, 2012).

5311 APPLYING UTILITY ALLOWANCES

- 5311.1 The utility allowance is calculated for each Family based upon DCHA's utility allowance schedule, which is based on the average utility costs for a unit of comparable size. DCHA shall periodically update the utility allowance to account for increases in energy costs. The allowances set by DCHA are applicable to all program types.
- 5311.2 A DCHA-established utility allowance schedule is used in determining Family share and HAP. DCHA shall use the appropriate utility allowance for the size of dwelling unit actually leased by a Family rather than the voucher unit size for which the Family qualifies using DCHA subsidy standards.
- 5311.3 DCHA shall approve a utility allowance amount higher than shown on DCHA's schedule if a higher allowance is needed as a reasonable accommodation for a Family member with a disability, in accordance with DCHA's procedures regarding reasonable accommodation.
- 5311.4 In the event of an interim recertification, DCHA shall use the current utility allowance schedule. Revised utility allowances shall be applied to a Family's rent and subsidy calculations at the first regular recertification that is effective after the allowance is adopted.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7895 (June 29, 2012).

5312 BIENNIAL RECERTIFICATION OF INCOME

- 5312.1 Families shall be requested to provide information on income, assets, allowances and deductions, and Family composition at least biennially.
- 5312.2 Biennial recertification for midmonth move-ins (for example September 15th) shall be conducted no later than the second following year by the first of the move-in month (for example September 1st).
- 5312.3 When families move to another dwelling unit, the Family will be required to complete an interim recertification.
- 5312.4 If the Family reports a change which results in an increase or decrease in the TTP, other than in response to a biennial recertification, it shall be considered an interim adjustment.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7895 (June 29, 2012).

5313 RECERTIFICATION NOTICE TO THE FAMILY

- 5313.1 In accordance with § 8410.1, DCHA shall maintain a recertification tracking system that shall ensure that at least one hundred fifty (150) days in advance of the scheduled biennial recertification effective date, the Head of Household shall be notified by mail that she or he is required to attend a recertification interview on a specified date, or rearrange a date in advance if the scheduled date is unacceptable. The notice shall tell the participant which documents to bring.

- 5313.2 The Head of Household shall physically come into DCHA's office on the date and time requested in order to complete the recertification process.

- 5313.3 DCHA may permit mail-in recertification or in-home recertification as a reasonable accommodation to persons unable to come into DCHA's office.

- 5313.4 A Personal Declaration Form shall be provided along with the recertification notice and shall be completed by the participant prior to the interview.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7895 (June 29, 2012).

5314 DCHA INITIATED INTERIM RECERTIFICATIONS

- 5314.1 DCHA may require families who report zero income to complete a zero (0) income interview and certification not more frequently than every one hundred twenty (120) days.
- 5314.2 Families shall be required to complete an interim recertification of income at the time of a move from one assisted unit to another at any time other than the biennial recertification date.
- 5314.3 DCHA may conduct an interim recertification at any time in order to correct an error in a previous recertification or to investigate possible participant fraud.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7896 (June 29, 2012).

5315 CHANGES IN INCOME

- 5315.1 If the Family timely reported an increase in household income, DCHA shall exclude from the determination of annual household income any increase that is less than ten thousand dollars (\$10,000). This income shall be excluded until the next biennial recertification.

- 5315.2 All other increases in income shall be considered part of annual income and shall trigger an interim recertification in accordance with chapter 84 of this title of the DCMR.

- 5315.3 If the Family is adding a Family member who has a source of income, DCHA shall count the source of income, as applicable, in the determination of annual income.

- 5315.4 Any decreases in income shall be processed in accordance with § 5310.

- 5315.5 Pursuant to 24 C.F.R. § 5.615, if a Family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, that decrease in income shall not cause a change in the Family's share of the rent.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7896 (June 29, 2012).

5316 CHANGES IN FAMILY COMPOSITION

- 5316.1 The Family shall request DCHA approval to add a new Family member, with the exception of the addition of a Family member as a result of birth, adoption, foster placement or court-awarded custody. However, in all circumstances the Family is required to notify DCHA of the addition in accordance with chapter 84 of this chapter of the DCMR.
- 5316.2 Requests to add adult Family members are subject to DCHA’s eligibility requirements at chapter 51 of this title of the DCMR.
- 5316.3 DCHA shall only consider a request to add an adult to the Family composition under the following circumstances:
- (a) Marriage;
 - (b) If the adult is to be added as a live-in aide; or
 - (c) As a reasonable accommodation.
- 5316.4 Before DCHA’s approval can be finalized, the Family shall obtain the owner’s written approval to add a new Family member or a live-in aide.
- 5316.5 If the owner declines to approve the addition of a new adult Family member, the Family will be issued a transfer voucher. The new member will be added to the Family composition once the Family member has moved into a new unit.
- 5316.6 DCHA shall not add any Family members who claim citizenship or eligible immigration status to the household until a social security number is provided and verified.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7897 (June 29, 2012).

5317 REMOVING A HOUSEHOLD MEMBER

- 5317.1 The Family shall notify DCHA within thirty (30) days of occurrence, if any Family member no longer lives in the unit.
- 5317.2 DCHA shall make the determination whether the person no longer living in the unit is considered to be temporarily absent or permanently absent in accordance with § 5318, before the Family member can be removed from the household.
- 5317.3 DCHA shall not remove the Family member from the household until such time as it can be sufficiently verified that the person is residing elsewhere.
- 5317.4 Sufficient verification that a person is residing elsewhere shall include at least one (1) of the following:
- (a) A lease for another unit;
 - (b) A utility bill for another unit;
 - (c) Government-issued ID issued after the date the household member vacated the leased premises;
 - (d) U.S. Postal Service change-of-address form;
 - (e) School records;
 - (f) Court order; including but not limited to a Civil Order of Protection;
 - (g) Government benefits record; or
 - (h) Other documentary proof satisfactory to the DCHA.
- 5317.5 If the Family is unable to produce documentation satisfactory to the DCHA, the Family may submit a form attesting under penalty of perjury that the individual has permanently vacated the household, and DCHA shall remove the individual from the Family composition upon receipt of such form.
- 5317.6 If a Family receiving assistance breaks up into two (2) otherwise eligible families as a result of divorce, separation, or intrafamily offenses, then DCHA shall use the following procedures to determine which Family shall continue to be assisted:
- (a) DCHA shall be bound to any decision of the courts, including but not limited to in cases of divorce, legal separation, or intrafamily offenses, as to who shall continue to receive assistance;

- (b) In the case that there is no judicial decision relating to the assistance, DCHA shall consider the following:
 - (1) Any incidence of domestic violence or an intrafamily offense, in which case, the victim of the violence or offense shall continue to receive assistance;
 - (2) The interest of minor children; or
 - (3) The interest of an ill, elderly, or disabled Family member; and;
- (c) If DCHA receives conflicting certification documents of domestic violence from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may determine which Family member is the true victim by requiring third-party documentation in accordance with the Violence Against Women Act (VAWA), as explained in § 4907.8 and other applicable laws using the following guidelines:
 - (1) Prior to making any determination on who retains assistance, DCHA shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the residence or an alternative address if one is provided that only one (1) part of the family shall continue to receive assistance;
 - (2) The notice shall inform both adults of how DCHA will determine who retains assistance, and what relevant information each adult can provide to assist DCHA in making its determination;
 - (3) After making its determination using the factors as enumerated in § 5317.6, DCHA shall notify both adults in writing of its decision and the basis for the decision; and
 - (4) The adult family member who DCHA determines shall not continue to receive assistance shall be entitled to an informal hearing pursuant to chapter 89 of this title of the DCMR.

5317.7 DCHA shall not determine that both families shall continue to be assisted unless an exception applies pursuant to VAWA or other applicable laws.

5317.8 If the Head of Household has been determined to be permanently absent due to a medical reason, death, or incarceration, DCHA may permit a remaining adult family member to become Head of Household if the remaining Family is comprised of one or more of the following persons:

- (a) Minor children;

(b) Elderly; or

(c) Disabled.

5317.9 DCHA shall notify the remaining family member in writing of its determination within thirty (30) days of receipt of the completed application.

5317.10 If DCHA determines that a remaining adult family member is eligible to become Head of Household under § 5318.9, the adult family member must first:

(a) Submit an application; and

(b) Attend a briefing.

5317.11 Live-in Aides, Foster Children, and adult wards are not considered part of the Family and shall not be considered remaining Family members.

5317.12 If the Head of Household leaves the assisted unit voluntarily, other adult Family members shall not be considered remaining Family members and housing assistance shall not be continued unless the remaining Family members can provide the information required by § 5405.1(d). This shall be considered a voluntary withdrawal from the Program that is not subject to informal hearing procedures.

5317.13 If the Head of Household dies or permanently vacates the unit and there are remaining Family members but no remaining adult household members, or none who are able to serve as Head of Household, then an adult who is not listed as a member of the household composition may reside in the assisted unit and may apply to become Head of Household. The following shall apply under these circumstances:

(a) The applicant to be Head of Household must produce evidence of a caregiving relationship with the remaining minor children or disabled adults. Such documentation may include, but is not limited to, court order; notarized authorization from the children's legal guardian; school or medical records; public benefit records; and sworn statements from medical, legal, or social service professionals;

(b) Where the remaining Family members are minors, the applicant to be Head of Household must either:

(1) Obtain Custodial Power of Attorney; or

(2) Commence legal proceedings to obtain legal guardianship or custody of the minor children. So long as such proceeding is

pending, and the applicant has produced evidence of a caregiving relationship and meets DCHA's other screening criteria, DCHA shall consider the applicant to be eligible to be Head of Household and the voucher shall be transferred to that person;

- (c) In the case of § 5318.4(b)(ii), the applicant's eligibility to be Head of Household is contingent on legal proceedings pending or being resolved in favor of the applicant. If a court of competent jurisdiction denies the applicant's petition for custody or guardianship, no appeal is pending, or the appeal period has expired, DCHA will determine the applicant ineligible to be Head of Household and may issue a Recommendation for Termination (RFT). In that event, another remaining adult household member may submit an application to be Head of Household within thirty (30) days of the issuance of the RFT, and DCHA will process such application in accordance with the requirements of this section; and
- (d) Where more than one (1) adult has competing claims to become Head of Household as caregivers of the remaining minor children, DCHA shall follow the ruling of a court of competent jurisdiction regarding the custody or guardianship of the children.

5317.14 During any period that a caregiver is considered a visitor, the income of the caretaker shall not be counted in annual income and the caregiver does not qualify the Family for any deductions from income.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7897 (June 29, 2012).

5318 ABSENT FAMILY MEMBERS

- 5318.1 A Family member who is or is expected to be absent from the assisted unit for one hundred twenty (120) consecutive days or less is considered temporarily absent and continues to be considered a Family member. Income, assets, or applicable deductions of a temporarily absent Family member shall be used in the calculation in the determination of the Family's TTP.
- 5318.2 A Family member who is or is expected to be absent from the assisted unit for more than one hundred twenty (120) consecutive days shall be considered permanently absent and no longer a part of the Family composition with the following exceptions:
- (a) A Spouse;
 - (b) Children placed in foster care who have not been permanently removed from the home;
 - (c) A Family member hospitalized more than one hundred twenty (120) consecutive days but who is not permanently confined under § 5318.9; or
 - (d) A Family member who attends school away from home.
- 5318.3 Income, assets or applicable deductions of a permanently absent Family member shall not be considered in the determination of the TTP. The effective date of the permanent absence shall be one hundred twenty (120) days after the Family member has been permanently absent from the household, regardless of the date the absence is first reported to DCHA.
- 5318.4 If a child has been placed in foster care, DCHA shall verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child shall be counted as a Family member. If the Family head receives verification that the child has been permanently removed from the home, the assisted Family must supply the information to DCHA.
- 5318.5 If a Spouse is absent from the household assisted unit more than one hundred twenty (120) consecutive days the Spouse shall continue to be considered a Family member and the Spouse's income shall be counted. The Spouse shall remain as part of the assisted household until DCHA receives verification is received documenting that the Spouse has left the household in a divorce action, legal separation, or through other verifiable third party documentation that documents that the Spouse has established a legal residency outside of the assisted household.
- 5318.6 Acceptable forms of verification shall include:

- (a) Court Ordered Separation;
- (b) Finalized Divorce Decree;
- (c) Verification that a Divorce or Legal Separation has been filed;
- (d) A lease at another address;
- (e) Bill(s) at another address (utility, gas, etc.);
- (f) Court records that reflect incarceration and the term of the sentence; or
- (g) Orders of Protection or other court orders.

5318.7 A student who is not the Head of Household or Spouse who attends school away from the assisted unit, but lives with the Family during school recesses may be considered temporarily absent or permanently absent at the Family's discretion.

5318.8 If a Family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a Family member and the income of that person is not counted.

5318.9 Upon the return of a permanently absent Family member, the Family shall submit a written request to DCHA for approval of the return of any adult Family members that DCHA has determined to be permanently absent. The individual shall be subject to the eligibility and screening requirements.

5318.10 The Head of Household shall be required to report and declare, in writing, if a member of the Family is permanently or temporarily absent. The Family shall be briefed on the effect of a permanently or temporarily absent Family member as it relates voucher size and TTP.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7901 (June 29, 2012).

5319 DECEASED FAMILY MEMBERS

- 5319.1 If the Family member is the sole Family member of the household and DCHA has verified that this person is deceased, DCHA shall notify the landlord of immediate HAP contract termination. DCHA shall collect monies owed from the landlord retroactively to the end of the month in which the sole Family member died. The landlord is not entitled to any HAP when the sole Family member has been verified to be deceased even when the landlord is unaware of the death.
- 5319.2 DCHA shall take corrective actions pursuant to policies in listed in chapter 56 of this title when DCHA has determined that:
- (a) A Family has concealed and/or failed to report change in Family composition;
 - (b) A landlord has breached the HAP contract by knowingly accepting DCHA payments for a unit in which DCHA has determined that the sole Family member is deceased; or
 - (c) When a live-in aide or any unauthorized persons has continued to live in the subsidized house, concealing to DCHA and/or the landlord that the sole member of the participant Family is deceased.
- 5319.3 Within thirty (30) days after DCHA learns that the Head of Household is deceased, DCHA shall notify any remaining Family members, in writing sent to the address on file for the Family, of the Family's rights to continue in the HCVP.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7903 (June 29, 2012).

5320 GUEST STAYS

- 5320.1 A guest may remain in the assisted unit no longer than thirty (30) consecutive days or a total of ninety (90) cumulative calendar days during any twelve (12) month period.
- 5320.2 Children who are subject to a joint custody arrangement or for whom a Family has visitation privileges and who are not included as a Family member because they live outside of the assisted household more than fifty percent (50%) of the time, are not subject to the time limitations of guests as described above.
- 5320.3 A Family may request an exception to this policy for valid reasons (such as, care for a relative recovering from a medical procedure is expected to last forty (40) consecutive days). An exception shall not be made unless the Family can identify and provide documentation of the residence to which the guest will return.
- 5320.4 Participant must comply with HCVP's guest stay policies which may be separate from and in addition to any lease term or condition entered into between the assisted Family and owner. If an assisted Family fails to adhere to this policy, they may be terminated from the HCVP.
- 5320.5 The following types of guests may stay in the unit longer than thirty (30) consecutive days or ninety (90) cumulative days with the prior written approval of DCHA and the property owner:
- (a) Minor children where the Head of Household is in a care-giving relationship; and
 - (b) Persons awaiting DCHA approval as a live-in aide.
- 5320.6 Written requests for guests to stay in the unit longer than thirty (30) consecutive day or ninety (90) cumulative days shall be made in writing by the Head of Household to the HCVP Office. DCHA shall mail a response to the request by first-class mail within thirty (30) days of the receipt of the request.
- 5320.7 Guests may remain in the unit while the request is being reviewed, but if DCHA determines that a guest shall not remain in the unit, the guest must vacate the unit within fourteen (14) days' notice of written disapproval, or after thirty (30) days, whichever occurs later.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7903 (June 29, 2012).

5321 HOUSING QUALITY STANDARDS AND INSPECTIONS

- 5321.1 DCHA is required to inspect each unit receiving assistance under the HCVP to ensure that it is "decent, safe, and sanitary" according to Housing Quality Standards.
- 5321.2 DCHA has adopted additional local requirements of acceptability, defined in § 5324 and the local District of Columbia Housing Code.
- 5321.3 A unit must meet Housing Quality Standards to be eligible for a Housing Assistance Payment, both at initial lease-up and so long as the participant Family resides in the unit.
- 5321.4 DCHA shall perform four types of inspections:
- (a) Initial;
 - (b) Annual;
 - (c) Complaint; and
 - (d) Quality Assurance.
- 5321.5 DCHA maintains a listing of units under contract by month to ensure systematic reviews of contract rent, allowances for utilities and other services, and housing quality in accordance with the requirement for biennial recertification. Monetary changes are transmitted to the Accounting Office to affect a change in the next rental payment.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7904 (June 29, 2012).

5322 ELIGIBLE TYPES OF HOUSING

- 5322.1 All structure types may be utilized, including but not limited to single Family, duplex, triplex, fourplex, garden apartment, townhouses, and high-rises.
- 5322.2 Families may only rent units from relatives as reasonable accommodation for a disability, in accordance with DCHA’s policy as stated in § 4900.3.
- 5322.3 Housing owned by DCHA is ineligible under the HCVP, as well as units where the Family is being subsidized under other Section 8 programs.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7905 (June 29, 2012).

5323**ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HOUSING QUALITY STANDARDS**

5323.1 DCHA adheres to the acceptability criteria in the federal regulations and HUD Inspection Booklet to ensure the following systems are compliant with HQS:

- (a) Food preparation and refuse disposal;
- (b) Space and security;
- (c) Thermal environment;
- (d) Illumination and electricity;
- (e) Structure and materials;
- (f) Interior air quality;
- (g) Water supply;
- (h) Lead-based paint;
- (i) Site and neighborhood;
- (j) Sanitary conditions; and
- (k) Smoke detectors.

5323.2 DCHA may grant a one hundred twenty (120) day extension to the HQS compliance regulations when severe weather prevents immediate repair as long as the deficiency does not create a hazardous condition.

5323.3 All Housing Quality Standards Inspections shall be conducted in accordance with the standards contained in 24 C.F.R. § 982.401 except as noted below:

- (a) Utilities shall be turned on for the Housing Quality Standards inspection prior to the execution of a HAP Contract;
- (b) If the tenant is supplying the range or refrigerator, the working condition shall be verified at the time of the move in;
- (c) DCHA may fail the unit due to unsanitary conditions if exposed food, garbage, and excrement exist to a degree where health may be endangered;
- (d) Pilot lights which are present on gas stoves shall be in proper working order;

- (e) Trash bags shall not be considered "adequate covered facilities" for trash; and
- (f) Adequate heat shall be considered to be 65 degrees Fahrenheit (65°F) within three feet (3 ft.) of the floor and from an exterior wall for all rooms used for living.

- 5323.4 Violations noted in the Housing Quality Standards that are marked as "Pass with Comments" violations will be considered minor violations. They must be repaired but will not be re-inspected on site; rather they will be subjected to a self-certification by the owner and tenant.
- 5323.5 Lead-based paint requirements shall apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six (6) years of age, excluding zero (0) bedroom dwellings.
- 5323.6 For units occupied by children under six (6) with an elevated environmental intervention blood lead level (lead poisoned), a risk assessment shall be conducted. If lead hazards are identified during the risk assessment, the owner shall complete hazard reduction activities. If the activities are not completed within thirty (30) days, the unit is deemed to be in violation of HQS. Further guidance is contained in the Housing Choice Voucher Guidebook.
- 5323.7 DCHA may make reasonable accommodations to HQS standards as necessary pursuant to § 4900.3.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7905 (June 29, 2012).

5324 CORRECTING HOUSING QUALITY STANDARDS DEFICIENCIES DURING INITIAL INSPECTIONS

- 5324.1 DCHA shall schedule a timely inspection of the unit upon receipt of a Request for Lease Approval and Lease. The Family and the owner shall be notified of the results.
- 5324.2 Prior to the scheduled inspection, the participant shall be provided with a pre-inspection checklist to be completed by the owner or landlord and returned to DCHA before the first initial inspection visit.
- 5324.3 If the unit fails the Housing Quality standards inspection, DCHA shall schedule a re-inspection.
- 5324.4 On an initial new move-in inspection, the owner shall generally be given fourteen (14) days to correct the items noted as "Fail" depending on the extent of the repairs that have to be made, unless there are extenuating circumstances. However, the owner shall be required to complete the repairs by the Lease Start Date.
- 5324.5 The owner shall generally be allowed up to one (1) re-inspection for repair work to be completed. Depending on the amount and complexity of work to be done, the Inspections Department may move the re-inspection out beyond fourteen (14) days.
- 5324.6 If the time period given by the Inspector to correct the repairs (or two (2) failed re-inspections, if required by the Inspector) expires, the Family may select another unit or, if they want to continue to try to lease this unit, the Family and owner shall have to submit another Request for Lease Approval.
- 5324.7 Upon submission of a Request for Lease Approval and Lease, the term of the voucher is suspended, such that if a unit does not pass Housing Quality Standards, or the lease is not approved by DCHA, the remaining time on the voucher is available to the Family without requesting an extension.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7907 (June 29, 2012).

5325 GENERAL POLICIES FOR ANNUAL INSPECTIONS

- 5325.1 Units shall be inspected for adherence to Housing Quality Standards at least once during a fiscal year.
- 5325.2 If the tenant or owner complains that the unit does not meet Housing Quality Standards, DCHA shall conduct a complaint inspection. The staff has to inspect only the items that the Family or owner are complaining about, but if other violations are noticed during the inspection, the staff shall also note those items and require the owner or Family to repair the violations.
- 5325.3 The owner or Family shall be given time to correct the failed items. There are two (2) guidelines to use:
- (a) If the items endangers the Family's health or safety using the emergency items list at § 5325, the owner or Family shall be given twenty-four (24) hours to correct the violation after being notified; or
 - (b) For all other cited deficiencies, the owner or Family shall be given thirty (30) days to correct the item(s).
- 5325.4 Minor violations that are listed as "Passed with Comments" on the inspection report shall not be re-inspected on site. Instead the tenant and owner will be given a self-certification form whereby they can certify that the violations have been repaired.
- (a) If the Family does not repair those minor violations that are attributable to the Family, the Family will not be approved for a transfer voucher except in emergency circumstances as set forth in § 8500.1; or
 - (b) If the owner does not repair those minor violations that are attributable to the owner, the owner will not be approved for an annual rent increase.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7908 (June 29, 2012).

5326 EMERGENCY REPAIR ITEMS LIST

- 5326.1 The following items are to be considered of an emergency nature and shall be corrected by the owner within twenty-four (24) hours of notice by the Inspector:
- (a) Electrical outlet smoking or sparking;
 - (b) Escaping gas from gas stove;
 - (c) Major plumbing leaks or flooding;
 - (d) Natural gas leak or fumes;
 - (e) Electrical situation which could result in shock or fire;
 - (f) No heat when outside temperature is below fifty degrees Fahrenheit (50° F);
 - (g) Lack of utilities; and
 - (h) Any other condition the Inspector deems necessary which may cause a threat to tenant's health or safety.
- 5326.2 If the owner does not make the required emergency repairs within twenty-four (24) hours of notice of the owner violations, Housing Assistance Payments shall be abated in accordance with § 5329.
- 5326.3 If the Family does not make the required emergency repairs within twenty-four (24) hours of notice of the failed Family violation(s), the Family shall be recommended for termination.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7908 (June 29, 2012).

**5327 RESPONSIBILITY OF THE FAMILY TO ALLOW
INSPECTION**

- 5327.1 DCHA shall be allowed to inspect the unit at reasonable times with reasonable notice. The Family and owner are notified of the inspection appointment by mail. If the Family is not able to be at home, the Family shall call to reschedule the inspection or make arrangements to have an adult Family representative or the landlord present.

- 5327.2 If the Family misses the inspection appointment and does not arrange for the representative or the landlord to be there, one (1) more inspection or the annual return inspection appointment shall be scheduled.

- 5327.3 If the Family misses two (2) inspection appointments, DCHA shall consider the Family to have violated a Family obligation and the Family's assistance may be terminated, following the procedures for termination of assistance.

- 5327.4 If the Family can demonstrate in writing on or before the hearing process that they were unable to complete the inspections at the scheduled times due to a disability, DCHA shall rescind the request for termination. Evidence of the disability shall be provided to the HCVP HQS Inspections Department.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7909 (June 29, 2012).

5328 ABATEMENT FOR HOUSING QUALITY INSPECTION FAILURES

- 5328.1 When DCHA determines that an assisted unit fails to meet Housing Quality standards as described in 14 DCMR §§ 5320, *et. seq.*, and the owner has been given an opportunity to correct the problem(s) and does not do so within the time frame established by DCHA, the rent for the unit shall be abated.
- 5328.2 DCHA will notify the owner in the notice scheduling the re-inspection that if the unit fails the re-inspection, abatement may begin effective the first day of the following monthly accounting period. After the unit fails re-inspection, DCHA shall send the owner and participant Family a Contract Cancellation Notice, informing the owner and the participant of the date that the abatement was effective, and the date that the contract will be terminated if a third inspection is not passed.
- 5328.3 The Contract Cancellation Notice shall also include information about legal service providers.
- 5328.4 The abatement period shall continue until the unit passes the Housing Abatement Compliance Inspection during the abatement period, or forty-five (45) days have expired from the first of the month following the final failed inspection, whichever comes first.
- 5328.5 The owner must request the Housing Abatement Compliance Inspection at least ten (10) business days prior to the date of the Contract Cancellation. The owner will be charged a fee for this third inspection. This fee must be paid before the hold on the HAP payments will be released.
- 5328.6 If the owner fails to request a third and final inspection within forty-five (45) days of re-inspection, or the unit fails the third and final inspection the Contract shall terminate effective the date in the Notice pursuant to § 5329.2 or at the time of the final failure, whichever occurs later.
- 5328.7 If the unit passes final inspection, the HAP Contract shall not be terminated and HAP to the owner shall resume from the date of passed inspection.
- 5328.8 In the event that DCHA makes overpayments when a unit should have been abated for HQS violations, DCHA shall make every attempt to recapture the overpayments. The Family shall not be responsible to the owner for any part of DCHA's portion of rent that is recaptured pursuant to this section.
- 5328.9 DCHA shall have up to one hundred eighty (180) days from the date of the final failed inspection to begin to abate rent.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7910 (June 29, 2012).

5329 HOUSING ASSISTANCE PAYMENT CONTRACT TERMINATION

- 5329.1 If the owner fails to correct all the owner violations cited within the abatement period, the contract shall be cancelled.
- 5329.2 As noted in § 5328.2, DCHA shall send the owner and Family a HAP Contract Cancellation Notice informing the owner and tenant of the effective date of the cancellation.
- 5329.3 While the Contract Cancellation Notice is pending, the abatement shall remain in effect.
- 5329.4 The Family shall be given a transfer Voucher:
 - (a) If the Family is within the first year of the HAP contract, a transfer Voucher shall be issued upon the effective date of the cancellation notice; or
 - (b) If the Family is outside of the first year of the HAP contract, the transfer Voucher shall be issued upon the tenant making a request as outlined on the Contract Cancellation Notice.
- 5329.5 When the HAP contract is cancelled for HQS violation(s), and the Contract Cancellation Notice expires, it cannot be reinstated. If repairs are done and the unit passes inspection before the effective cancellation date, the cancellation will automatically be rescinded if the Family chooses to remain in the unit.
- 5329.6 If the tenant remains in the unit after the cancellation of the HAP contract, the tenant may be liable for payment of DCHA's portion of the contract rent.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7911 (June 29, 2012).

5330 OWNER HOUSING ASSISTANCE PAYMENT RESPONSIBILITIES

- 5330.1 During the term of the HAP contract, and subject to the provisions of the HAP contract, DCHA shall make monthly HAP payments to the owner on behalf of the Family, at the beginning of each month.
- 5330.2 If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month for new families only. For transfer vouchers, HAP payments shall always start on the first day of the month.
- 5330.3 The amount of the HAP payment is determined according to the policies described in local and federal regulations relating to the HCVP, and is subject to change during the term of the HAP contract.
- 5330.4 DCHA shall notify the owner and the participant in writing of any changes in the HAP payment.
- 5330.5 HAP payments may be made only during the lease term, and only while the Family is residing in the unit. If the sole member of a household is deceased, the HAP terminates on the last day of the month in which the person dies.
- 5330.6 The owner shall credit the monthly HAP payment toward the monthly rent under the Family's lease. The total of the rent paid by the Family, plus DCHA HAP payment, shall be equal to the rent specified in the lease.
- 5330.7 The Family is not responsible for payment of the HAP payment, and DCHA is not responsible for payment of the Family share of rent.
- 5330.8 The Family's share of the rent may not be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.
- 5330.9 If the owner receives any excess HAP from DCHA, the excess amount shall be returned immediately.
- 5330.10 If DCHA determines that the owner is not entitled to all or a portion of the HAP, DCHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCVP contract.
- 5330.11 If DCHA deducts overpayments from unit from an owner's other Section 8 HCVP contract, DCHA shall notify the participant Family in writing of the action against

the owner. The Family is not responsible for any portion of a HAP that is deducted to cover an overpayment.

5330.12 DCHA shall make HAP payments to owners by electronic transfer to the owner's bank account or by mailing a check.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7911 (June 29, 2012).

5331 OWNER CERTIFICATIONS

5331.1 By endorsing the monthly check from DCHA or accepting payments via direct deposit, the owner certifies compliance with the terms of the HAP contract. This includes certification that:

- (a) The owner remains the owner for the premises leased;
- (b) The owner is maintaining the unit and premises in accordance with HQS;
- (c) The contract unit is leased to the Family and, to the best of the owner's knowledge, the Family resides in the unit as the Family's only residence;
- (d) The rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and
- (e) The owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7912 (June 29, 2012).

5332 UTILITY ALLOWANCE

- 5332.1 If the Family pays for some or all utilities, DCHA shall provide the Family with a utility allowance. The allowances are based on actual rates and average consumption estimates, not on a Family's actual energy consumption. The utility allowance is given as a reduction in the Family's portion of rent to be paid to the owner.
- 5332.2 The Family's share shall be the TTP minus an allowance for utilities based on income determinations as enumerated by 24 C.F.R. § 5.609 and 24 C.F.R. § 5.611.
- 5332.3 DCHA shall review the Utility Allowance Schedule on an annual basis. If a revision is needed, based on methods required by HUD, the Utility Allowance Schedule shall be revised.
- 5332.4 Approved utility allowance schedule(s) shall be given to families along with their Housing Voucher. The same schedule(s) shall be used by DCHA to record the actual allowance for the unit the Family selects if there are Family-paid utilities.
- 5332.5 Where the Utility Allowance exceeds the TTP of the Family, DCHA shall provide a Utility Reimbursement Payment on behalf of the Family each month.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7913 (June 29, 2012).

5333 FAMILY MOVES

- 5333.1 Except as noted in this subsection, families may move in accordance with chapter 85 of this title of the DCMR.
- 5333.2 Each Family shall give notice to move in accordance with chapter 85 of this title of the DCMR.
- 5333.3 DCHA shall not approve requests to move a Family more than once in a twelve (12) month period unless one of the exceptions apply:
- (a) A victim or Family seeks to move under the protections enumerated in the VAWA;
 - (b) DCHA terminates the HAP contract with the owner; or
 - (c) The move is necessary to grant a request for a reasonable accommodation.
- 5333.4 Families may only request a Voucher transfer briefing if the Family:
- (a) Has lived in their unit for at least a year;
 - (b) Has not been terminated or is not currently being recommended for termination;
 - (c) Is in good standing with the lease in the current unit (no outstanding rent or tenant-responsible utility bills); and
 - (d) Does not have any current tenant-caused HQS violations in their existing unit.
- 5333.5 If the request is timely and granted, a Family shall only receive one (1) transfer voucher and one (1) transfer briefing between every biennial recertification.
- 5333.6 Notwithstanding § 5334.4, Families who qualify for emergency transfer vouchers shall be issued a transfer voucher if one (1) or more of the following conditions apply:
- (a) The family has demonstrated a need based on the protections for victims of intrafamily violence as explained in § 4907;
 - (b) DCHA has terminated the HAP contract with the Family's landlord;
 - (c) The Owner has initiated eviction proceedings against the Family;

- (d) Emergency transfer was granted after request from the OAG as a matter of safety; or
- (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.

5333.7 Requests for transfer vouchers made within six (6) months before or after the month of biennial recertification shall be denied unless the Family either:

- (a) requests the transfer voucher at the first or second biennial recertification appointment; or
- (b) qualifies for one (1) of the emergency conditions as stated in § 5334.6.

SOURCE: Final Rulemaking published at 59 DCR 7890, 7913 (June 29, 2012). Amended at 59 DCR 11004, 11005 (September 21, 2012)

5400 GENERAL POLICY

- 5400.1 DCHA verifies Family income, Family composition, status of full time students, value of assets, factors allowing a preference, and other factors relating to eligibility determinations before an applicant Family is issued a voucher.
- 5400.2 DCHA shall verify all information that is used to establish the Family’s eligibility and level of assistance and DCHA shall obtain the Family’s consent to collect the information. Applicants and participants shall cooperate with the verification process as a condition of receiving assistance.
- 5400.3 DCHA shall not pass on the cost of verification to the Family.
- 5400.4 All verification attempts, information obtained, and decisions reached during the verification process shall be recorded in the Family’s file in sufficient detail to demonstrate that DCHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a DCHA staff member, a HUD reviewer, and a participant to understand the process followed and conclusions reached.

SOURCE: Final Rulemaking published at 59 DCR 7916 (June 29, 2012).

5401 RELEASE OF INFORMATION

- 5401.1 All adult applicant Family members shall sign HUD Form-9886, Authorization for Release of Information. The purpose of HUD Form-9886 is to facilitate automated data collection and computer matching from specific sources and provides the Family's consent only for the specific purposes listed on the form.
- 5401.2 DCHA shall require that all adult applicant Family members sign the General Authorization form. The purpose of the form is to facilitate DCHA with automated data collection and computer matching from specific sources not covered by HUD Form-9886 and provides the Family's consent for the specific purposes listed on the form.
- 5401.3 DCHA shall make two (2) attempts to have specific verifications forms signed by the appropriate Family member as evidence of their understanding of the type/nature of information being sought. Failure to return the forms, absent a proper basis for doing so, shall constitute a failure to recertify.
- 5401.4 If the Head of Household fails to sign a consent form, DCHA shall deny admission to the applicant Family and terminate assistance to the household. The Family may request an informal review or informal hearing in accordance with chapter 89 of this title of the DCMR.
- 5401.5 If a Family member other than the Head of Household is required to sign a consent form and fails to do so, then DCHA shall inform the Head of Household of their right to remove that person from the household composition. If the Head of Household does not take steps to remove the noncompliant person from the Family composition, DCHA may terminate the assistance of the Family.

SOURCE: Final Rulemaking published at 59 DCR 7916 (June 29, 2012).

5402 METHODS OF VERIFICATION

5402.1 In order of priority, the forms of verification that DCHA shall use are:

- (a) Up-front Income Verification (UIV) whenever available;
- (b) Third-party Written Verification;
- (c) Third-party Written Verification Forms;
- (d) Third Party Oral Verification; and
- (e) Self-Certification.

5402.2 UIV shall be used to the extent that these systems are available to DCHA. UIV is an automatic form of third-party verification.

5402.3 Current UIV Resources at DCHA are:

- (a) HUD's EIV system;
- (b) The Work Number;
- (c) Department of Human Services;
- (d) Department of Employment Services; and
- (e) Child Support Enforcement.

5402.4 DCHA shall use HUD's EIV system as a third-party source to verify Family member employment and income information during biennial and interim recertification of Family composition and income, and shall not require the Family to provide information already available through the EIV system. The reports shall be retained in the participant file with the appropriate transaction.

5402.5 EIV reports shall constitute third party verification when the Family does not dispute the income sources and it is supplemented with participant provided documents. EIV may not be used to calculate anticipated wage income; it shall only be used as a verification of the employment income source.

5402.6 If the Family does not dispute the income source, DCHA shall use participant provided documents to anticipate annual income.

5402.7 DCHA shall attempt another form of third party verification in the following circumstances:

- (a) The Family disputes income source in EIV;
- (b) Additional information is required as determined by DCHA; and
- (c) In cases of absent Family members and approved requests for reasonable accommodations.

5402.8 When DCHA is unable to obtain verification through a UIV source, DCHA shall make at least two (2) attempts to obtain third-party verification before using another form of verification.

5402.9 DCHA shall seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

5402.10 DCHA shall consider documentation provided by the Family to be written third party verification if the documentation is:

- (a) Original documentation generated by a third party source;
- (b) Dated within sixty (60) days preceding the date of the recertification or interim adjustment; and
- (c) If pay stubs, they are consecutive and dated within thirty (30) days of submission.

5402.11 DCHA may mail, fax, e-mail, or hand deliver third-party written verification requests and shall accept third-party responses using any of these methods:

- (a) DCHA shall send a written request for verification to each required source and give the source ten (10) business days to respond in writing;
- (b) If a response has not been received by the eleventh business day, DCHA may request third-party oral verification;
- (c) A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source shall be documented in the file. When DCHA uses oral third party verification a “Document Viewed or Person Contacted” form shall be filled out by the staff person;
- (d) When any source responds orally to the initial written request for verification DCHA shall accept the oral response but shall also request that the source complete and return any verification forms that were provided;

- (e) If a third party agrees to confirm in writing the information provided orally, DCHA shall wait no more than five (5) business days for the information to be provided. If the information is not provided by the sixth business day, DCHA shall use any information provided orally in combination with the information provided by the Family; or
- (f) DCHA shall determine that third-party verification is not available when there is a service charge for verifying an asset or expense and the Family has original documents that provide the necessary information. DCHA shall document in the Family file the reason that the third-party verification was not available and shall place a photocopy of the original document(s) in the Family file.

- 5402.12 If DCHA determines that third-party verification is not available or not required, DCHA shall use information provided by the Family as verification.
- 5402.13 DCHA may also review documents when necessary to help clarify information provided by third parties. In such cases DCHA shall document in the file how DCHA arrived at a final conclusion about the income or expense to include in its calculations.
- 5402.14 DCHA shall accept a self-certification from a Family as verification of assets disposed of for less than fair market value.
- 5402.15 DCHA shall only review documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than ten thousand dollars (\$10,000) annually and the Family has original documents that support the declared amount.
- 5402.16 Any documents used for verification shall be the original (not photocopies), if available, and shall be dated within one hundred eighty (180) days of the interview date, except tax returns which can be dated within three hundred sixty five (365) days of the interview and may not be original.
- 5402.17 The documents shall not be damaged, altered or in any way illegible. Print-outs from web pages are considered original documents. A DCHA staff member who views the original document shall make a photocopy.
- 5402.18 DCHA may reject any income documentation for reasons allowed by the administrative plan or HUD.
- 5402.19 When information cannot be verified by a third party or by review of documents, Family members shall be required to submit self-certifications attesting to the accuracy of the information they have provided to DCHA.

- 5402.20 DCHA may require a Family to certify through a sworn statement that a Family member does not receive a particular type of income or benefit.
- 5402.21 The self-certification shall be made in a format acceptable to DCHA and shall be signed by the Family member whose information or status is being verified. All self-certifications shall be signed in the presence of a DCHA representative or shall be notarized.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7917 (June 29, 2012).

5403 FAMILIES WHO REPORT NO INCOME

5403.1 During any regularly scheduled or interim recertification where a Family reports they earn no income, a worksheet shall be utilized to determine potential undisclosed sources of income. Families with no income shall be subject to periodic interim recertification as further explained in § 5604.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7920 (June 29, 2012).

5404 VERIFICATION OF LEGAL IDENTITY

5404.1 These are the acceptable forms of participant-provided documents for purposes of documenting the file:

- (a) The acceptable forms of verification of Legal Identity for adults in a Family are:
 - (1) Certificate of birth, naturalization papers;
 - (2) Church issued baptismal certificate;
 - (3) Current valid driver's license;
 - (4) Department of Motor Vehicles Identification Card;
 - (5) U.S. Military Discharge (DD 214);
 - (6) U.S. Passport; or
 - (7) Voters Registration Card; and
- (b) The acceptable forms of verification of legal identity for children in a Family are:
 - (1) Certificate of birth;
 - (2) Church issued baptismal certificate;
 - (3) Adoption Papers;
 - (4) Custody Agreement;
 - (5) School Records; or
 - (6) Health and Human Services Identification.

5404.2 The social security numbers of household members, such as live-in aides, shall be verified for the purpose of conducting criminal background checks.

5404.3 Eligible Immigration Status shall be verified through USCIS protocols.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7920 (June 29, 2012).

5405 FAMILY RELATIONSHIPS

5405.1 Applicants and program participants shall identify the relationship of each household member to the Head of Household with the following types of documents:

- (a) Marriage:
 - (1) Marriage Certificate;
 - (2) Marriage License;
 - (3) Proof of Common Law Marriage Recognition; or
 - (4) Official IRS Tax Records;
- (b) Separation or Divorce:
 - (1) Certified Copy of Divorce Decree;
 - (2) Court Record documenting separation;
 - (3) Evidence of annulment; or
 - (4) If there is no court order, documentation from clergy, social service providers or other community members;
- (c) To prove the absence of a Family member, the Family shall supply verification in accordance with § 5318.3 and § 5318.4;
- (d) To prove that a Family has been abandoned by the Head of Household, a remaining household member must provide one of the following types of documents:
 - (1) Certification from a social service agency;
 - (2) Information from child support enforcement agency;
 - (3) Documentation of legal action against parent or guardian;
 - (4) Documentation that the Head of Household is incarcerated; or
 - (5) Other acceptable documentation as determined by DCHA on a case-by-case basis; or

- (e) To prove the existence of a foster relationship, the Head of Household shall provide one (1) of the following forms of documentation:
 - (1) Verification from the state or local government agency responsible for the placement of the individual with the Family is required; or
 - (2) Written verification from a biological parent sufficient to show a Family or custodial relationship with the participant and the child or children.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7921 (June 29, 2012).

5406

VERIFICATION OF ANNUAL INCOME

5406.1

All of the below listed sources of income are subject to the verification hierarchy listed previously in this chapter, unless specifically stated otherwise.

- (a) Three (3) consecutive paycheck stubs;
- (b) Tips, commissions and bonuses. If not included in paycheck stubs:
 - (1) Previous two (2) year official federal and local tax returns;
 - (2) Certified Statement from participants of anticipated tips, based on previous twenty-four (24) months; or
 - (3) New hire, statement from employer on anticipated amount for the next twelve (12) months;
- (c) Documentation of Self Employment income may include:
 - (1) IRS Form 1040, with applicable schedules;
 - (2) Schedule C (Small Business);
 - (3) Schedule E (Rental Property Income);
 - (4) Schedule F (Farm Income);
 - (5) Audited Financial Statement; or
 - (6) Certified Financial Statement, if Tax Returns or Audited Financial Statement is not available;
- (d) If none of the above are available, notarized statement of net income anticipated to be received within the next twelve (12) months, based on the previous twelve (12) months;
- (e) A Social Security/Social Security Insurance Benefits Benefit Award Letter dated within sixty (60) days of DCHA's request is required to verify income from the Social Security Administration. The following applies to the proof of Social Security and Social Security Insurance benefits:
 - (1) DCHA shall not accept photocopies of social security checks or bank statements.
 - (2) If the participant or applicant is missing the benefit award letter, DCHA shall help the participant or applicant request a benefit

verification letter from SSA's website, or by calling 1-800-772-1213. The service is free and the applicant or participant will receive Proof of Income Letter within ten (10) days;

- (f) For child support payments, the following types of documents may be used to verify income:
 - (1) Court ordered child support documents;
 - (2) Twelve (12) month payment history print out from the enforcement agency;
 - (3) Notarized statement from person paying the support stating the amount and the frequency of payments made; and
 - (4) If the person paying the support refuses to provide the notarized statement, documentation of efforts to obtain the statement from the person paying the support and an affidavit from the person receiving the support stating the amount and frequency of payments made;
- (g) Recipients of unemployment benefits shall provide records from the unemployment agency stating gross amount of pay, frequency of pay, and expected termination date;
- (h) Participants shall provide an affidavit signed by the participant or person assisting the Family attesting to recurring gifts or assistance received. Examples of regular contributions include:
 - (1) Regular payment of a Family's bills (such as utilities, telephone, rent, credit cards, and car payments);
 - (2) Cash or other liquid assets provided to any Family member on a regular basis; and
 - (3) "In-kind" contributions such as groceries and clothing provided to a Family on a regular basis;
- (i) Non-monetary contributions shall be valued at the cost of purchasing the items, as determined by DCHA. For contributions that may vary from month to month (such as, utility payments), DCHA shall include an average amount based upon past history;
- (j) Scholarships, Tuitions, Grants and Financial Assistance shall be documented through records from an Institution of Higher Education detailing the cost of tuition anticipated for the next twelve (12) months and

verification of all scholarships, grants and loans received individually identified;

- (k) DCHA may request third party verification of income, even if the income source is excluded from the calculation of annual income; and
- (l) If DCHA is able to identify through participant-provided documents that the source is excluded from income, then DCHA shall use participant provided documents to document the file.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7923 (June 29, 2012).

5407 ASSETS

5407.1 DCHA, under its MTW authority established Initiative 3.7.08 entitled “Rent Simplification and Collection” which simplified calculation of assets for purposes of determining income. The following provision shall apply to calculating assets as imputed income:

- (a) DCHA shall not require documentation of assets during the biennial recertification process; and
- (b) DCHA shall not consider imputed income from assets in the calculation of total annual income.

SOURCE: Final Rulemaking published at 59 DCR 7916, 7925 (June 29, 2012).

5500 PARTICIPANT FAMILY REQUEST FOR PORTABILITY

- 5500.1 When a Family wishes to move under portability, the Family shall inform DCHA in writing of the area to which the Family wishes to move. DCHA shall assist the Family in contacting the PHA where they wish to port (the Receiving PHA) in writing, if the Family hasn't already done so.
- 5500.2 DCHA shall contact the Receiving PHA and request the following information:
- (a) Contact person for Receiving PHA;
 - (b) Phone number;
 - (c) Fax number;
 - (d) Physical address and mailing address for Receiving PHA; and
 - (e) Any specific procedures the Family shall be made aware of for appointments and voucher issuance.

SOURCE: Final Rulemaking published at 59 DCR 7926 (June 29, 2012).

5501 DENYING FAMILY REQUEST TO MOVE UNDER PORTABILITY

5501.1 DCHA shall deny a Family's request to move under portability, subject to the protections in the VAWA, Fair Housing Act (FHA), and District of Columbia Human Rights Act (DCHRA) if:

- (a) The Family is an applicant Family coming off the waiting list and has not been assisted in DCHA's jurisdiction for twelve (12) months;
- (b) The Family is currently under termination procedures;
- (c) The Family is in a repayment agreement with DCHA, and has not paid it off;
- (d) The Family has moved from its current unit in violation of the lease;
- (e) The Family has not lived in DCHA jurisdiction for at least twelve (12) months since being admitted into the Program;
- (f) The requested move is not in compliance with chapter 85 of this title of the DCMR; or
- (g) DCHA does not have the sufficient funding for continued assistance to support the move.

5501.2 If DCHA denies a Family portability for any of the reasons in § 5501.1, within ten (10) days of the decision, DCHA shall provide written notice to the participant or applicant of the specific basis for the denial and of its right to an informal hearing or review in accordance with chapter 89 of this title of the DCMR.

5501.3 If a Family requests portability under the protections of VAWA, DCHA shall request that the Family provide one (1) of the following documents:

- (a) The HUD-approved certification HUD Form-50066;
- (b) Federal, state, tribal, territorial, or local police record;
- (c) Documentation signed by an employee, agent, or volunteer of a victim service provider, or an attorney or medical provider from whom the victim has sought assistance in the situation; or
- (d) Other acceptable documentation in order to verify the Family's claim that the request to move is prompted by an instance or incidences of abuse.

SOURCE: Final Rulemaking published at 59 DCR 7926 (June 29, 2012).

5502 DENYING PORTABILITY MOVES DUE TO INSUFFICIENT FUNDING

- 5502.1 If DCHA denies a request for portability due to insufficient funding such requests shall be documented with proper financial documentation demonstrating DCHA's inability to support the portability request.
- 5502.2 DCHA shall only deny a request to move to a higher cost area if DCHA would be unable to avoid terminations of housing choice voucher assistance for current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.
- 5502.3 Before denying the Family's request to move due to insufficient funding, DCHA shall contact the Receiving PHA to determine whether the Receiving PHA will absorb the Family.
- 5502.4 If the Receiving PHA is willing to absorb the Family, there shall be no grounds to deny the portability move for insufficient funding.
- 5502.5 If DCHA denies a Family's request for a portability move due to insufficient funding, it shall not admit any additional families to its voucher program until it determines that sufficient funding exists to approve the move and has notified the Family that the Family may now exercise its move to the higher cost area.
- 5502.6 DCHA shall consider a Family's request for a portability move for thirty (30) days from the date the request was filed if there is insufficient funding to immediately grant the request.
- 5502.7 If funds become available within thirty (30) days which would allow the Family to move to a higher cost area, DCHA shall notify the Family by first class mail that funds are available, and that the request is granted.
- 5502.8 If funding is unavailable after thirty (30) days, DCHA shall notify the Family by first class mail that the request to port is denied, and that they may reapply to port after ninety (90) days from the date of denial.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7927 (June 29, 2012).

5503 OUTGOING PORTABILITY PROCEDURES

- 5503.1 Once DCHA approves the Family's portability move out of DCHA's jurisdiction, DCHA shall schedule the Family to attend a portability briefing.
- 5503.2 DCHA shall brief the Family on:
- (a) The estimated time frame for submitting paperwork to the Receiving PHA;
 - (b) How to contact the Receiving PHA;
 - (c) Any special requirements from the Receiving PHA regarding appointments;
 - (d) Policy on voucher extensions for portable families;
 - (e) Expiration of Vouchers;
 - (f) Requirement to provide a Notice to Vacate to the owner of the current unit;
 - (g) Determination of Voucher size and Payment Standards; and
 - (h) Procedure for returning to DCHA or portability to any other jurisdiction.
- 5503.3 DCHA shall notify the Receiving PHA of the Family's choice to get necessary contact information and incoming portability procedures.
- 5503.4 DCHA shall complete an outgoing portability packet containing the following:
- (a) Part I of the HUD Form-52665 along with a copy of the voucher issued to the Family;
 - (b) A current copy of HUD Form-50058 for program participant; and
 - (c) Copies of the income verification backing up the form.
- 5503.5 In the case of an applicant, DCHA will not have a completed HUD Form-50058 because the Family is not yet a new admission, however DCHA shall provide the Family information and income information in a format similar to the HUD Form-50058.
- 5503.6 DCHA shall mail, fax, or email the portability packet to the Receiving PHA, in accordance with the Receiving PHA's policy.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7928 (June 29, 2012).

5504 BILLING

- 5504.1 The Receiving PHA shall provide initial billing to DCHA:
- (a) No later than ten (10) business days following the date of execution of the HAP contract; and
 - (b) To receive the billing no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.
- 5504.2 DCHA shall accept billing by mail, fax, or email. If billing notice is not received by the deadline DCHA shall contact the Receiving PHA by mail, email, or fax to determine the status of the Family.
- 5504.3 If the Receiving PHA reports that the Family is not yet under HAP contract, DCHA shall inform the Receiving PHA in writing that they shall not accept any subsequent billing on behalf of the Family and shall not honor any subsequent billing, and the Receiving PHA shall be required to absorb the voucher.
- 5504.4 If the Receiving PHA reports that the Family is under HAP contract and it cannot absorb the Family DCHA shall accept the subsequent late billing.
- 5504.5 The Receiving PHA shall send a copy of the updated HUD Form-50058 at each regular recertification for the duration of time the Receiving PHA is billing DCHA on behalf of the Family, regardless of whether there is a change in the billing amount.
- 5504.6 Should DCHA fail to receive an updated HUD Form-50058 by the annual recertification date, it shall contact the Receiving PHA to verify the status of the Family. DCHA may not withhold payment solely because the Receiving PHA did not submit the updated HUD Form-50058 by the annual recertification date.
- 5504.7 DCHA shall also receive a new HUD Form-52665 along with the HUD Form-50058 when the Initial PHA reports any changes in the billing amount, if applicable. The notice shall be received by DCHA no later than ten (10) working days following the effective date of the change.
- 5504.8 If the Receiving PHA fails to send the HUD Form-52665 within ten (10) working days following the effective date of the change in the billing amount, DCHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification.
- 5504.9 Should there be a decrease in the monthly billing amount DCHA shall notify the Receiving PHA in writing of the overpayment and DCHA shall recover overpayment in the following month's payment. If DCHA is unable to recover

payments in the following month, DCHA shall demand that the Receiving PHA reimburse within thirty (30) days of notification.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7929 (June 29, 2012).

5505 INCOMING PORTABILITY PROCEDURES

- 5505.1 Once DCHA receives the portability packet, the assigned Housing Programs Specialist shall ensure that the Family's voucher has not expired and will not expire within thirty (30) days.
- 5505.2 If an incoming Family's voucher has expired, the specialist shall contact the Initial PHA to see if any extensions are granted. If the Initial PHA grants an extension, the PHA must provide a corrected voucher and HUD Form-52665 before DCHA will schedule an appointment for the Family.
- 5505.3 If the voucher is expired or the term of the voucher will not allow sufficient time to process, and the Initial PHA has already been contacted, the portability packet shall be returned to the Initial PHA with a cover letter stating the reasons for returning the packet.
- 5505.4 When DCHA is billing the Initial PHA, the assigned Housing Programs Specialist shall ensure that the Family has at least thirty (30) days left on the voucher before scheduling an appointment. If the time left on the voucher is less than thirty (30) days, the specialist shall contact the Initial PHA and request the maximum time allowed on the voucher, in order to ensure that the voucher term shall leave sufficient time to process a Request for Lease Approval, HQS, and execution of HAP contract, and cover the anticipated delivery time so that it shall be received by the Initial PHA by the deadline date on the HUD Form-52665.
- 5505.5 DCHA shall schedule the portability appointment within two (2) weeks of receiving the portability packet. The notice of appointment date and time will be sent by first-class mail. The letter shall also tell the Family what documents are needed for the portability appointment.
- 5505.6 DCHA shall not re-determine eligibility for a portable Family that was already receiving voucher assistance.
- 5505.7 DCHA shall issue the voucher at the time of portability appointment and shall not delay the voucher issuance or approval of unit due to new income recertification unless the Family refuses to comply with DCHA procedures.
- 5505.8 After issuing a portable voucher, DCHA may take subsequent action against the Family based on the results of a background check or adjusted income determination.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7930 (June 29, 2012).

5506 TERM OF VOUCHER WHEN DISTRICT OF COLUMBIA HOUSING AUTHORITY IS ABSORBING

- 5506.1 In order to allow families the maximum time available to locate safe, decent, and affordable housing in a neighborhood that is low-poverty and to maximize the families' economic opportunities, DCHA shall issue a new voucher allowing the Family a search time of one hundred eighty (180) days from the initial PHA's date of issuance.
- 5506.2 The Family shall be informed at the time of briefing that any extensions of search time provided by DCHA are only valid for the Family's search in DCHA jurisdiction. Should the Family decide to return to the Initial PHA it shall be within the time given in the Initial's PHA voucher.
- 5506.3 DCHA cannot guarantee that the Initial PHA will grant any extensions to allow their return and search time.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7931 (June 29, 2012).

5507 TERM OF VOUCHER AND EXTENSIONS WHEN DISTRICT OF COLUMBIA HOUSING AUTHORITY IS BILLING

5507.1 The term of the voucher shall not expire before the expiration date of the Initial PHA voucher.

5507.2 DCHA shall not provide additional search time to the Family beyond the expiration date of the Initial PHA voucher. Should the Initial PHA grant an extension on the voucher for the Family, HUD Form-52665 shall be corrected by the Initial PHA to reflect the corrected due date for the initial billing.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7932 (June 29, 2012).

5508 ABSORPTION OF A PORTABLE FAMILY

- 5508.1 A Housing Specialist shall not absorb families into the Program unless the Director of the HCVP or his or her designee directs or approves the absorption of the families.

- 5508.2 When DCHA is absorbing on an ongoing basis, an incoming portable Family is considered to be absorbed to into the Program once DCHA executes the HAP contract on behalf of the Family, versus at the time of voucher issuance.

- 5508.3 A portable Family may also be absorbed by terminating billing arrangement with the initial PHA. DCHA shall give thirty (30) days' advance notice to the initial PHA of the intent to absorb and the effective date of the absorption of the Family.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7932 (June 29, 2012).

5509 NOTICE TO INITIAL PUBLIC HOUSING AUTHORITY OF BILLING OR ABSORPTION

5509.1 DCHA shall send Part II of HUD Form-52665 to the Initial PHA notifying the Initial PHA of absorption or billing arrangements.

5509.2 Under no circumstances shall DCHA absorb families into its program retroactively.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7932 (June 29, 2012).

5510 BILLING DEADLINES AND ONGOING RESPONSIBILITIES

5510.1 DCHA shall submit initial billing notice as follows:

- (a) No later than ten (10) working days following the date the HAP contract was executed; and
- (b) In time that it shall be received no later than sixty (60) days following the expiration date of the Family's voucher issued by the Initial PHA.

5510.2 When billing, DCHA shall:

- (a) Send HUD Form-52665 and HUD Form-50058 via fax, mail or email, as acceptable by the initial PHA;
- (b) DCHA shall inform the Initial PHA of its MTW status and its Biennial Recertification initiative;
- (c) Send the Initial PHA a copy of the updated HUD Form-50058 at each biennial recertification for the duration of time DCHA is billing the Initial PHA on behalf of the Family, regardless of whether there is a change in the billing amount; and
- (d) Send a new HUD Form-52665 along with the HUD Form-50058 to report any changes in the billing amount, if applicable. The notice shall be sent to the Initial PHA no later than ten (10) working days following the effective date of the change.

5510.3 Should the biennial recertification be late and DCHA fail to submit the billing within ten (10) days of the effective date the initial PHA may not withhold payment solely because DCHA did not submit the updated from HUD Form-50058 by the biennial recertification date.

5510.4 If DCHA causes the delay, the Initial PHA is not required to pay any increase in payment after the billing deadline, and may begin paying the increased amount the following month.

5510.5 Should DCHA fail to properly notify the Initial PHA and the Initial PHA refuses to pay the increased cost, DCHA shall be required to absorb the increased cost for the period in which the billing was late.

5510.6 When a current Family in good standing requests to port outside of DCHA jurisdiction, DCHA shall:

- (a) Not issue a voucher to the Family; and

- (b) Notify the Initial PHA of the Family's desire to port to another jurisdiction.

5510.7 The Initial PHA shall be responsible for issuing a voucher and sending the portability paperwork to the PHA where the Family wishes to port. DCHA shall assist the Initial PHA by providing them the most current HUD Form-50058 and supporting documentation.

5510.8 Billing arrangements shall be terminated once the HAP payments for the landlord terminate. DCHA shall notify the Initial PHA in advance of the effective date of the termination of billing.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7933 (June 29, 2012).

5599 **DEFINITIONS**

5599.1 The following terms and phrases shall apply only to chapter 55 of title 14 of the DCMR:

Initial PHA - the Public Housing Authority in the jurisdiction where the participant Family currently leases a unit and wishes to move from.

Receiving PHA - the Public Housing Authority in the jurisdiction in which the participant Family wishes to lease a rental unit.

SOURCE: Final Rulemaking published at 59 DCR 7926, 7934 (June 29, 2012).

5600 DEBTS AND REPAYMENT AGREEMENTS POLICIES

5600.1 DCHA shall make a concerted effort to collect the debt when it is determined that participant families or owners owe money to DCHA.

5600.2 DCHA shall use a variety of collection tools to recover debts including, but not limited to:

- (a) Requests for lump-sum payments;
- (b) Civil suits;
- (c) Repayment agreements;
- (d) Reductions in payments for other units;
- (e) Referral to collection agencies;
- (f) Reporting to credit bureaus; or
- (g) Income tax set-off programs.

SOURCE: Final Rulemaking published at 59 DCR 7935 (June 29, 2012).

**5601 DEBTS DUE TO PROGRAM FRAUD,
MISREPRESENTATIONS, OR
NON-REPORTING OF INFORMATION**

- 5601.1 A participant Family or owner may owe a debt to DCHA for program abuse or non-reporting information to the HCVP, even if the participant Family or owner had no intent to commit fraud. In such cases, the debt is still due and payable to DCHA.
- 5601.2 DCHA may initiate termination proceedings for any Family owing a debt due to program fraud, misrepresentation, or failure to disclose information. Proceedings shall be halted if the Family agrees to enter into a repayment agreement and signs the agreement and all supporting documentation. If the Family refuses to acknowledge the amount owed and sign the repayment agreement and all other supporting documentation, DCHA shall begin or resume termination proceedings.
- 5601.3 When a Family owes a debt to DCHA, DCHA shall offer the Family an opportunity to enter a repayment agreement unless DCHA determines that the debt is due to fraud or repeated program violations.
- 5601.4 When DCHA determines that a debt is owed, DCHA shall send a notice to the Family that includes the following:
- (a) The amount of the debt owed;
 - (b) An explanation for the basis of the debt and how it was calculated;
 - (c) Copies of any supporting documentation (for example, EIV reports); and
 - (d) Instructions on how to provide DCHA with supporting documentation to contest the amount of the debt.
- 5601.5 Except in cases of fraud or repeated program violations, as described above, DCHA shall permit the Family to enter a repayment agreement. DCHA shall provide a copy of the proposed repayment agreement to the Head of Household together with the notice described in § 5601.4. If the Family declines to enter into a repayment agreement, on terms proposed by DCHA or other reasonable terms, DCHA may proceed with termination.
- 5601.6 Where DCHA determines that the Family is not entitled to enter into a repayment agreement because the debt is due to fraud or repeated program violations, DCHA shall provide that information in the notice to the Family described in § 5601.4, including the reasons DCHA believes that a repayment agreement is not warranted, and shall advise the Head of Household of its right to challenge DCHA's decision to terminate assistance pursuant to chapter 89 of this title of the DCMR.

- 5601.7 If a Participant Family or owner owes a debt as a result of alleged program fraud, DCHA may take one (1) or more of the following actions at its sole discretion:
- (a) Refer the participant Family to the HUD Inspector General for investigation;
 - (b) Refer participant Family to the U.S. Attorney for criminal prosecution;
 - (c) Refer the debt to a debt collection agency or DCHA's Office of Attorney General for collection; or
 - (d) Terminate the participant Family's assistance with proper prior notice and opportunity for a hearing.
- 5601.8 Under no circumstances, regardless of the amount of the debt, shall an offset be made against utility allowance payments. DCHA staff shall inform the participant Family that no offset against utility allowances payments may be taken.
- 5601.9 If DCHA determines that an owner has retained (or obtained) inadvertently or unintentionally Housing Assistance Payments to which the owner is not entitled, DCHA may elect to either:
- (a) Deduct the amounts from future Housing Assistance Payments owed to the owner for any units under contract; or
 - (b) Enter into a Repayment Agreement as specified by § 5602.
- 5601.10 If future Housing Assistance Payments are insufficient to reclaim the amounts owed, DCHA will, at its option and full discretion, pursue one (1) or more of the following collection activities:
- (a) Require the owner to pay the amount in full;
 - (b) Enter into a Repayment Agreement for the amount owed;
 - (c) Pursue collections through the local court system;
 - (d) Terminate the HAP contract;
 - (e) Restrict or deny the owner from future participation in the HCVP program; or
 - (f) Any other programmatic or legal action as identified in § 5601.7 above.

SOURCE: Final Rulemaking published at 59 DCR 7935 (June 29, 2012).

5602 REPAYMENT AGREEMENTS GENERALLY

- 5602.1 A Repayment Agreement is a document entered into between DCHA and a Head of Household or an owner who owes a debt to DCHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, special provisions, and the remedies available to DCHA upon default of the Agreement.
- 5602.2 The minimum monthly payment under a repayment agreement shall be negotiated on a case-by-case basis between DCHA and the participant Family or owner.
- 5602.3 The goal of any repayment agreement shall be to establish reasonable monthly payments such that the participant can remain in the program so long as he or she complies with the terms of the repayment agreement.
- 5602.4 The circumstances in which DCHA may decline to enter into a Repayment Agreement include, but are not limited to, any of the following:
- (a) If the participant Family or owner already has a Repayment Agreement in place;
 - (b) If DCHA determines that the Family or owner:
 - (1) committed program fraud;
 - (2) intentionally withheld information; or
 - (3) intentionally provided false information; or
 - (c) If the Family already has a Repayment Agreement in place and incurs an additional debt to DCHA, any old debts to DCHA shall be paid in full before DCHA enters into a new Repayment Agreement.

SOURCE: Final Rulemaking published at 59 DCR 7935, 7937 (June 29, 2012).

5603 REPAYMENT AGREEMENTS TERMS

- 5603.1 DCHA shall only execute Repayment Agreements with a Head of Household or an owner.
- 5603.2 All payments under a Repayment Agreement shall be due in full on the first (1st) day of the month and shall be considered to be in default if not paid by the tenth (10th) day of the month. Any check given for payment under a Repayment Agreement that is dishonored by the bank upon which it is drawn shall be considered in default unless the participant can demonstrate bank error.
- 5603.3 All repayment agreements shall have the terms of repayment as set by DCHA and agreed to by the Head of Household or owner. Each monthly payment shall be a fixed installment of the amount due with a minimum monthly payment of ten dollars (\$10).
- 5603.4 The terms of a Repayment Agreement may be renegotiated if there is a decrease or increase in the Family's income.
- 5603.5 Repayment Conditions for owners shall be as follows:
- (a) All debts owed by owners shall be repaid through either Repayment Agreement or reduction in future HAP at the sole and absolute discretion of DCHA; and
 - (b) DCHA may determine that a participating owner be given no more than twelve (12) months to repay a debt through a Repayment Agreement or through reduction in future HAP payments, or some combination thereof.
- 5603.6 Hardship exemptions shall be requested in writing by the Head of Household for tenant repayments or property owner for owner repayments. DCHA shall verify the hardship circumstances and respond in writing within ten (10) days of the receipt of the information verifying the hardship.
- 5603.7 DCHA shall consider requests for hardships as described below:
- (a) Monthly payments for Participant Families may be decreased to a minimum of ten dollars (\$10) per month in cases of Family hardship and if requested with reasonable notice from the Family, verification of the hardship, and the approval of a HCVP Supervisory staff member;
 - (b) In the case of landlord or owner debt, an exemption of one thirty-(30) day period may be allowed if requested in writing with reasonable notice from the owner, verification of the hardship, and approval by an HCVP Supervisory staff member;

- (c) The maximum period for hardship exemptions from repayment agreements shall be six (6) months. Hardship exemptions shall only be granted under the following circumstances:
 - (1) The Family has lost eligibility for, or is awaiting, an eligibility determination for a federal, state, or local assistance program. This includes a Family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Act;
 - (2) Family income has decreased because of changed Family circumstances, including the loss of employment or change in household composition;
 - (3) A health emergency occurred that caused an unexpected increase in household expenses; or
 - (4) A death has occurred in the Family; and
- (d) Once the six (6) month period of hardship payments has passed, the original repayment terms shall automatically resume.

5603.8 If DCHA decides not to enter a Repayment Agreement, or a participant disputes the amount of the debt, DCHA shall send a notice of the rights to review accordance with the policies in chapter 89 of this title of the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7935, 7938 (June 29, 2012).

5604 RESTRICTIONS ON MOVES FOR DEFAULT

- 5604.1 No participant Family moves shall be approved if the Repayment Agreement is in default, unless there is a request in writing from the Participant Family and documentation provided, satisfactory to HCVP, that the move is the result of one (1) of the following causes:
- (a) Family size exceeds the Housing Quality Standard maximum occupancy number;
 - (b) The HAP contract is terminated due to owner non-compliance;
 - (c) A natural disaster occurs;
 - (d) Requests for Reasonable Accommodation;
 - (e) Other health and safety issues such as threat of physical violence to the participant Family, request for relocation under a "Witness Protection" order, or other legitimate request;
 - (f) Intrafamily violence, dating violence, or stalking as explained in § 4907; or
 - (g) Other circumstances that would authorize the issuance of an emergency transfer voucher under § 5334.
- 5604.2 The granting of permission to move shall not limit DCHA's other remedies for enforcement of repayment agreements that are in arrears as contained in § 5605 or elsewhere in the DCMR.

SOURCE: Final Rulemaking published at 59 DCR 7935, 7940 (June 29, 2012).

5605 ARREARS

- 5605.1 If any payment is more than thirty (30) days past due, the repayments shall be considered to be in arrears, and the Family shall be deemed in violation of the terms of the Repayment Agreement.

- 5605.2 DCHA shall take action to terminate assistance to the participant Family and terminate any and all HAP contracts with the owner. DCHA may then seek all other collection remedies as described in this chapter. Termination proceedings shall continue until payments are no longer in arrears.

- 5605.3 DCHA shall apply all amounts received as payments toward repayment agreements to the oldest balances first.

SOURCE: Final Rulemaking published at 59 DCR 7935, 7940 (June 29, 2012).

5606 WRITING OFF DEBTS

- 5606.1 Heads of Household and former Heads of Household shall remain liable for all unpaid debts which shall remain on the books as a debt to DCHA, unless discharged by order of the United States Bankruptcy Court.
- 5606.2 While a Head of Household's debt shall remain on DCHA's books, DCHA may write off such debts for accounting purposes in accordance with DCHA's policies and procedures.
- 5606.3 Former Heads of Household with unpaid current debts shall be denied readmission to HCVP or admission to other DCHA programs. This does not apply to debts that have been discharged by order of the United States Bankruptcy Court, are barred by District of Columbia's statute of limitations, or are otherwise satisfied.

SOURCE: Final Rulemaking published at 59 DCR 7935, 7941 (June 29, 2012).

5800 GENERAL POLICY

- 5800.1 DCHA takes several steps to avoid recommending participant families and Owners for termination from the Program. Prior to making a Recommendation for Termination (RFT), DCHA will provide notice to the affected party/parties that includes a description of the violation, an explanation that failure to correct the violation may result in a recommendation for termination, and instructions on what must be done to correct the violation.
- 5800.2 Before DCHA makes a recommendation for termination, there are several opportunities for a Family or Owner to cure or explain the circumstances surrounding the violation. These include:
- (a) Walk-in Appointment days;
 - (b) Scheduled informal meetings; and
 - (c) Reviewing reasonable accommodation requests that pertain to the recommendation for termination.

SOURCE: Final Rulemaking published at 59 DCR 7942 (June 29, 2012).

5801 OWNER NOTICE TO VACATE

- 5801.1 During or any time after the first term of the lease, the Owner shall use legal means to evict the Family pursuant to the District of Columbia Rental Housing Act and applicable federal law. Service of a notice to vacate which does not comply with the lease and local or federal laws is not sufficient to evict a tenant.
- 5801.2 Where there is any conflict between the terms of a lease and federal or local law, federal or local law shall prevail.
- 5801.3 Eviction of a Family by the Owner shall not, in and of itself, constitute a violation of a Family’s obligations under the Program. DCHA shall not terminate Program assistance based solely on the fact that a Family has been evicted from a property.
- 5801.4 A Family who has been evicted shall be issued a transfer voucher to move to another unit, unless there are other valid grounds, as outlined in local regulations, to deny issuance of a transfer voucher.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7943 (June 29, 2012).

5802 GROUNDS FOR OWNER TERMINATION OF TENANCY

- 5802.1 The Owner is not permitted to terminate a participant Family’s tenancy except for serious or repeated violations of the lease, certain violations of state or local law as set forth in § 5802.3, or other good cause as governed by federal and local laws.
- 5802.2 The Owner may terminate the Family’s tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent, except when the violations are related to an incident or incidents of actual or threatened intrafamily offenses, sexual violence, dating violence, elder abuse, or stalking against the participant or an immediate Family member or when the Owner fails to reasonably accommodate the disability of a Family member. DCHA’s failure to make a HAP payment to the Owner is not a violation of the lease between the Family and the Owner.
- 5802.3 The Owner is permitted to terminate the tenancy if a fact-finder determines that a Family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises and the proper issuance and execution of a writ of restitution takes place.
- 5802.4 Any Owner termination of tenancy must be consistent with the District of Columbia Rental Housing Act and any other D.C. law governing landlord-tenant relations.
- 5802.5 DCHA may permit, at its discretion, Owners and participants to terminate a lease within the first twelve (12) months of tenancy if both parties agree. Written requests will be considered on a case-by-case basis and may be granted as a reasonable accommodation, or if DCHA determines termination is necessary.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7943 (June 29, 2012).

5803**GROUND FOR TERMINATION BY DISTRICT OF
COLUMBIA HOUSING AUTHORITY**

5803.1

DCHA may terminate assistance for the following reasons:

- (a) The participant Family in the HCVP has not reimbursed another PHA for:
 - (1) Any amounts paid to the Owner under a Contract for rent;
 - (2) Other amounts owed by the Family under the Lease; or
 - (3) Rent or damage fees owed for a vacated unit;
- (b) The participant Family has been found guilty of program abuse or fraud, bribery, or other criminal act in conjunction any federal or local housing assistance program (this presupposes that the Program abuse or fraud is substantiated and that the participant did not enter a Repayment Agreement with DCHA);
- (c) The participant is in default on an executed Repayment Agreement;
- (d) The participant's TTP is sufficient to pay the full gross rent and twelve (12) months have elapsed since DCHA's last HAP payment was made;
- (e) The Family has violated one (1) of their Family Obligations as explained further in § 5808; or
- (f) The Family has assets with net values greater than one hundred thousand dollar (\$100,000) or owns a residence suitable for occupancy. This restriction does not apply to Family Self-Sufficiency escrow funds or homes assisted through the HCV Program.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7944 (June 29, 2012).

5804 RESERVED

SOURCE: Final Rulemaking published at 59 DCR 7942, 7944 (June 29, 2012).

5805 GROUND FOR TERMINATION FOR MISSED APPOINTMENTS

5805.1 A participant Family may receive a notice of termination for failing to keep an appointment to provide additional documentation without notifying DCHA in advance in the following situations:

- (a) Bringing in Verification Information;
- (b) Initial Voucher Briefing;
- (c) HQS Inspection and Re-inspection;
- (d) Recertification;
- (e) Interim recertification mandated by DCHA; or
- (f) Other Appointments or Requirements to Bring in Documentation as listed in this plan.

5805.2 Before sending a notice of termination, DCHA shall automatically schedule the applicant or participant Family for a second appointment.

5805.3 If the applicant or participant Family does not show up for an appointment with DCHA, or does not provide access for an inspection, in the case of HQS inspections, within thirty (30) minutes of the second scheduled appointment and does not call to reschedule the required appointment, then:

- (a) DCHA may begin termination procedures. The Family shall be given an opportunity for an informal hearing, in accordance with chapter 89 of this title of the DCMR; and
- (b) If the Hearing Officer makes a determination in favor of the participant, an appointment for the function for which the hearing is being held shall be scheduled.

5805.4 DCHA shall not automatically schedule more than two (2) appointments.

5805.5 If the participant has missed two (2) appointments, assistance may be terminated with the thirty (30) day notice to the Family and Owner specified in this section.

5805.6 The termination for missed appointment shall be effective upon the first day of the second month following the missed appointment (thirty (30) days plus notice) unless the participant Family has timely requested an informal hearing.

- 5805.7 Applicants and participant families shall be notified of their rights under chapter 89 of this title of the DCMR on their notice of termination.
- 5805.8 Participants with disabilities may request that DCHA provide reasonable accommodations when attending appointments as necessary to begin or continue participation in the HCVP.
- 5805.9 A Family may not be terminated for missed appointments as outlined in this section if a participant provides DCHA with documentation certifying that the participant is a victim of domestic violence, dating violence, sexual assault, or stalking. Documentation may include a police record, court order, medical records, or documentation provided by a qualified third party in accordance with D.C. Official Code § 42-3505.07(c) (2010 Repl.).

SOURCE: Final Rulemaking published at 59 DCR 7942, 7944 (June 29, 2012). Amended at 59 DCR 011006 (September 21, 2012).

5806**VIOLATION OF OWNER RESPONSIBILITIES**

5806.1

If an Owner fails to honor his or her responsibilities under the rules of the Program, after being provided notice and an opportunity to address the issue, DCHA may terminate the HAP contract and require the Family to move. The basic Owner responsibilities in the HCVP are outlined in the regulations as follows:

- (a) Performing all of the Owner's obligations under the HAP contract and the lease;
- (b) Complying with DCHA's policies in accordance with the Administrative Plan;
- (c) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the Family is suitable for tenancy of the unit;
- (d) Maintaining the unit in accordance with the HQS, including performance of ordinary and extraordinary maintenance;
- (e) Complying with equal opportunity requirements;
- (f) Preparing and furnishing to DCHA information required under the HAP contract;
- (g) Collecting from the Family any security deposit, the TTP, and any charges for unit damage by the Family;
- (h) Enforcing tenant obligations under the dwelling lease;
- (i) Paying for utilities and services (unless paid by the Family under the lease);
- (j) Making modifications to a dwelling unit occupied or to be occupied by a person with a disability;
- (k) Complying with the VAWA and D.C. Official Code §§ 2-1401, *et seq.* when screening and terminating tenants;
- (l) Being in good standing as a participating Owner by HUD;
- (m) Leasing to relatives is prohibited except as a reasonable accommodation, approved by DCHA;
- (n) Not having a prohibited conflict of interest; and

- (o) Not discriminating against any person under any protected grounds as enumerated in D.C. Official Code § 2-1401.01, *et seq.* (2007 Repl. & 2011 Supp.) in connection with any actions or responsibilities under the HCVP and the HAP contract and shall cooperate with DCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCVP and the HAP Contract.

5806.2 DCHA may disapprove a Request for Tenancy or may cancel existing HAP Contracts if the Owner has committed any of a number of actions as enumerated by HUD guidelines. If DCHA disapproves a Request for Tenancy Approval (RTA) from a particular Owner, it may not terminate the HAP contract for any assisted families that are already living in the Owner's properties unless the Owner has violated the HAP contract for those households.

5806.3 DCHA may disapprove a Request for Tenancy or terminate an existing HAP Contract if DCHA becomes aware that any of the following are true:

- (a) The Owner has violated obligations under a HAP contract under Section 8 of the United States Housing Act of 1937;
- (b) The Owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, including requesting "side payments" of additional rent from the tenant; or
- (c) The Owner has engaged in any drug-related criminal activity or any violent criminal activity.

5806.4 DCHA may refuse to enter into new HAP contracts with Owners in the following circumstances:

- (a) The Owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal or local housing program;
- (b) The Owner has a history or practice of failing to terminate the tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:
 - (1) Threatens the right to peaceful enjoyment of the premises by other residents;

- (2) Threatens the health or safety of other residents, of employees or agents or contractors of DCHA, or of Owner employees or other persons engaged in management of the housing;
- (3) Threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or
- (4) Commits drug-related criminal activity or violent criminal activity;
- (c) The Owner has a history or practice of renting units that fail to meet state or local housing codes, including to make repairs on units under abatement within the sixty (60) day required period;
- (d) The Owner has a history of failure to comply with VAWA, the ADA, the Fair Housing Act or the D.C. Human Rights Act;
- (e) The Owner has not paid state or local real estate taxes, fines, or assessment; or
- (f) The Owner is not properly registered with the District of Columbia Department of Housing and Community Development.

5806.5 In considering whether to disapprove Owners for any of the discretionary reasons listed above, DCHA shall consider any mitigating factors. Such factors may include, but are not limited to:

- (a) The seriousness of the violation in relation to program requirements;
- (b) The impact on the ability of families to lease units under the Program; or
- (c) The health and safety of participating families.

5806.6 Upon consideration of the circumstances in § 5906.4, DCHA may, on a case-by-case basis, choose to approve an Owner.

5806.7 It is the responsibility of the Owner to report to DHCA within ten (10) days, any known circumstances where a tenant is deceased or has permanently vacated a unit. In accordance with the HAP contract, the Owner is not entitled to HAP for any period that the Family does not occupy the unit. Thus, it is the Owner's responsibility to return any payments of HAP received for periods when he or she knew that the household was no longer occupying the unit.

5806.8 In instances where the Owner does not voluntarily report that a unit has been vacated or that the sole Family member is deceased, DCHA shall seek to recoup overpayments in accordance with chapter 55 of this title of the DCMR.

5806.9 DCHA shall seek to recover HAP for any period that the Owner knew, or reasonably should have known, that the Family no longer occupied the unit or was deceased. Information regarding the Owner's knowledge could include, but is not limited to:

- (a) Information from utility companies that utilities have been placed in the Owner's name;
- (b) Returned mail with a forwarding address;
- (c) Inspection letters from DCHA or another entity that indicate that the unit is vacant;
- (d) Information from the Owner indicating that the Family has returned the keys; or
- (e) The submission of a RTA for another subsidized Family at the same address.

5806.10 DCHA shall not seek to recover funds for periods where the Owner had no knowledge of the deceased Family member. In instances where the Family has moved without notice, the Family shall be held liable for overpayments of HAP during periods prior to when the Owner had knowledge of the move.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7946 (June 29, 2012). Amended at 59 DCR 011006 (September 21, 2012).

5807 CHANGE IN OWNERSHIP

- 5807.1 DCHA shall process a change of Ownership only upon the written request of the new Owner and only if accompanied by a copy of the Recorded Deed or settlement documents, showing the transfer of title and the Federal Identification Number of the corporation or the Social Security number if the Owner is an individual, not a corporation.
- 5807.2 DCHA shall receive a written request by the Owner in order to make changes regarding who is to receive the rental payment and the address to which payment is to be sent.
- 5807.3 DCHA shall update its files and records to reflect the new information received.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7949 (June 29, 2012).

5808 FAMILY OBLIGATIONS TO AVOID TERMINATION

5808.1 The Family shall:

- (a) Supply such certification, release, information or documentation as DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible alien status, and submissions required for an annual or interim recertification of Family income and composition;
- (b) Allow DCHA to inspect the dwelling unit at reasonable times and after reasonable notice;
- (c) Notify DCHA before vacating the dwelling unit;
- (d) Use the dwelling unit solely for residence by the Family, and as the Family's principal place of residence; and
- (e) Promptly give DCHA a copy of a Writ of Restitution received when an Owner seeks to remove the family from the unit within ten (10) days of the date of the notice.

5808.2 The Family shall not:

- (a) Own or have any interest in the unit except for participants in the Home Ownership Assistance Program (HOAP) as further explained in chapter 92 of this title of the DCMR, other than in a cooperative;
- (b) Commit any fraud in connection with the HCVP;
- (c) Receive duplicative housing assistance under the HCVP while occupying, or receiving housing assistance for occupancy of, any other unit assisted under any Federal housing assistance program (including any Section 8 program); or
- (d) Sublease or assign the lease or transfer the unit.

5808.4 DCHA shall terminate assistance if:

- (a) A Family fails to submit required documentation within the required timeframe concerning any Family member's citizenship or immigration status as enumerated in chapter 54 of this title of the DCMR;
- (b) A Family submits evidence of citizenship and eligible immigration status in a timely manner, but USCIS primary and secondary verification does not verify eligible immigration status of the Family;

- (c) A Family member, as determined by DCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.
- (d) A Family is not receiving HAP assistance for more than twelve (12) months due to an increase in income; or

5808.5 For § 5908.4(c), such termination shall be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the Family's assistance has been prorated.

5808.6 A Family shall not receive HCVP assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the Family, except as a reasonable accommodation that DCHA approves.

5808.7 DCHA shall determine if a Family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or a writ of possession. Such violations may include, but are not limited to:

- (a) Nonpayment of rent;
- (b) Disturbance of neighbors;
- (c) Destruction of property;
- (d) Living or housekeeping habits that cause damage to the unit or premises;
and
- (e) Criminal activity.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7950 (June 29, 2012).

5809 INSUFFICIENT FUNDING

5809.1 DCHA may terminate HAP contracts if DCHA determines, in accordance with HUD requirements, that funding is insufficient to support continued assistance for families within the Program.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7951 (June 29, 2012).

5810 OTHER CONDITIONS AND PROCEDURES FOR TERMINATION OF ASSISTANCE

- 5810.1 Income limits are not a consideration for termination of assistance once the Family is participating in the Program.
- 5810.2 DCHA will notify the Owner in writing before terminating Housing Assistance Payments for any reason, including termination of the HAP Contract and termination of assistance to the Family.
- 5810.3 In any case where DCHA decides to terminate assistance to the Family, DCHA shall give the Family a thirty (30) day written termination notice which states:
- (a) The reasons for the termination;
 - (b) The effective date of the termination;
 - (c) The Family's right to request an informal hearing; and
 - (d) The Family's responsibility to enter into a new unassisted lease and pay the full rent to the Owner if they remain in the unit.
- 5810.4 In any case where DCHA decides to terminate assistance to the Family, DCHA shall give the Owner a thirty (30) day written termination notice which states:
- (a) The effective date of the termination, if the Family is actually terminated from the Program; and
 - (b) The Family's responsibility to enter into a new, unassisted lease and pay the full rent to the Owner if HAP payments terminate and the Family wishes to remain in the unit.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7951 (June 29, 2012).

**5811 PARTICIPANTS RECEIVING NO HOUSING ASSISTANCE
PAYMENT ASSISTANCE**

- 5811.1 Participants receiving no HAP assistance because their rental share equals the full rent may remain on the Program for twelve (12) months from the effective date they no longer receive assistance.
- 5811.2 When the twelve (12) months has been reached, the Owner shall be notified of the termination of the HAP Contract, in accordance with the HAP Contract.
- 5811.3 However, if the Owner is granted a rent increase during this period and the rent increase would cause DCHA to resume HAP payments, or if at biennial or interim recertification the participant has properly reported loss of income resulting in a HAP payment, the payments shall resume.
- 5811.4 During the twelve (12) month period that a Family may remain in the Program unassisted, DCHA shall perform all of the duties and responsibilities normally required in the Program, including recertifications and inspections of the unit. If the Family remains unassisted for twelve (12) months, without reporting a change that would trigger an increase in the HAP, the HAP contract shall terminate after twelve (12) months.
- 5811.5 Upon reducing a Family's HAP to zero (0), DCHA shall give the Family a written notice containing the following information:
- (a) As a result of its income and Family composition, the Family is responsible for the full contract rent;
 - (b) The Family may remain in the program for twelve (12) months paying the full contract rent;
 - (c) If the Family's income or Family composition changes, the Family should report that information to DCHA;
 - (d) If the Family remains at zero (0) assistance for twelve (12) months without reporting a change in income or Family composition, the Family will be terminated from the HCVP;
 - (e) The Family may move to another unit during the twelve (12) month period and if the Family would be entitled to assistance at the new unit (because of a higher rent, for example), DCHA will pay assistance at the new unit; and
 - (f) The Family's right to challenge the determination in accordance with chapter 89 of this title of the DCMR.

5811.6 If the tenant wants to move to another unit during this period whose rent is not greater, DCHA may execute a new HAP Contract for the new unit at zero dollars (\$0) assistance.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7952 (June 29, 2012).

5812 PROHIBITED ACTIONS

5812.1 A participant in the HCVP shall not knowingly:

- (a) Make a false statement, either oral or written, to DCHA;
- (b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- (c) Make payments to the Owner in excess of amounts authorized by DCHA for rent, security deposit, and additional services;
- (d) Offer bribes or illegal gratuities to DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;
- (e) Offer payments or other incentives to the Owner or a third party as an inducement for the third party to make false or misleading statements to DCHA on the Family's behalf;
- (f) Use a false name or the use of falsified, forged, or altered documents;
- (g) Misreport Family information or circumstances (such as income, Family composition);
- (h) Omit facts that were obviously known by a Family member (such as, not reporting employment income); or
- (i) Permit program abuse by an adult Family member.

5812.2 In the case of program abuse caused by a Family member DCHA may, at its discretion, impose any of the following remedies:

- (a) Require the Family to repay excess subsidy amounts paid by DCHA, as described earlier in this section;
- (b) Require, as a condition of receiving or continuing assistance, that a culpable Family member not reside in the unit;
- (c) Deny or terminate the Family's assistance;
- (d) Refer the Family for state or federal criminal prosecution; or
- (e) Require participation in the Good Neighbor Program.

5812.3 An Owner participating in the HCV program shall not knowingly:

- (a) Make any false statement to DCHA; or
- (b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including:
 - (1) Charging the Family rent above or below the amount specified by DCHA;
 - (2) Charging a security deposit other than that specified in the Family's lease or greater than one (1) month's rent;
 - (3) Charging the Family for services that are provided to unassisted tenants at no extra charge;
 - (4) Knowingly accepting housing assistance payments for any month(s) after the Family has vacated the unit or the sole-Family member is deceased;
 - (5) Knowingly accepting incorrect or excess housing assistance payments;
 - (6) Offering bribes or illegal gratuities to DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;
 - (7) Offering payments or other incentives to an HCV Family as an inducement for the Family to make false or misleading statements to DCHA; or
 - (8) Residing in the unit with an assisted Family.

5812.4 When DCHA determines that the Owner has committed program abuse, DCHA may take any of the following actions:

- (a) Require the Owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in the administrative plan and DCMR;
- (b) Terminate the HAP contract;
- (c) Bar the Owner from future participation in any DCHA programs; or
- (d) Refer the case to state or federal officials for criminal prosecution.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7953 (June 29, 2012).

5999

DEFINITIONS

5999.1 For purposes of chapters 49 through 59 of title 14 of the District of Columbia Municipal Regulations, comprising the administration of the Housing Choice Voucher Program, the following definitions shall apply:

Adjusted monthly income - one-twelfth (1/12) of Annual Income after allowances.

Annual Income – Annual Income shall have the definition as set forth by 24 C.F.R. § 5.609, as may be amended from time to time.

Application - a prescribed form, and any additional supporting documents, required to be completed by each person seeking admission to the HCVP operated by DCHA.

Briefing – a meeting with HCVP staff and an applicant or participant designed to provide relevant information regarding the responsibilities and obligations to continued participation in the HCVP.

Contract rent - The total amount of rent specified in the Housing Assistance Payments Contract as payable to the Owner by the Family and by the PHA to the Owner on the Family's behalf, including any rent increase approved by the PHA after the first year of the Housing Assistance Payments Contract.

Cooperative - housing owned by a nonprofit corporation or association and where a member of the corporation or association has the right to reside in a particular apartment and to participate in the management of the housing.

Cooperative Member - a Family in which one or more members own membership shares in a cooperative.

Dating violence - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

DCHA - District of Columbia Housing Authority or any successor entity thereto.

Dependent - any Family member other than the Head of Household or Spouse who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, adult wards, and live-in aides are never considered Dependents.

Determination date - the date on which DCHA interviewed the Family.

Disabled Family shall have the definition set forth in 24 C.F.R. §5.403, as may be amended from time to time.

Drug - a controlled substance as defined set forth in § 102 of the Controlled Substance Act (21 U.S.C. § 802), as may be amended from time to time.

Drug related criminal activity - the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Housing Assistance Payments Contract (Contract) - An executed contract between a PHA and an Owner for the purpose of providing housing assistance payments to the Owner on behalf of an eligible Family.

Intrafamily violence or intrafamily offense shall include felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the victim resides, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction where the victim resides.

Elderly Family shall have the definition set forth in 24 C.F.R. § 5.403, as may be amended from time to time.

Eligible Family - a household of one (1) or more persons that meets the minimum eligibility requirements set forth in § 9203.

Family shall have the definition set forth in 24 C.F.R. §5.403, as may be amended from time to time.

Family Self-Sufficiency Program or “FSS program” shall have the same meaning given under 24 C.F.R. § 984.103.

Fraud - a single act or pattern of actions that constitute a material false statement, misrepresentation, omission, or concealment of a substantial fact made by any applicant or participant (for example, tenant, landlord, employee, or contractor) with the intent to deceive or mislead. This includes, but is not limited to, any of the following activities:

- (a) Family’s intentional failure to report (or underreporting) of any household income or assets;

- (b) Landlords accepting additional rent moneys from tenants, entering into “side-leases,” etc.;
- (c) Bribery or kickbacks;
- (d) False claims;
- (e) Theft or embezzlement;
- (f) Forgery or alteration of documents;
- (g) Intentional destruction or concealment of records; or
- (h) Profiting from a conflict of interest.

Full-time Basis - at least thirty (30) hours per week.

HCVP/HOAP - the Housing Choice Voucher Program operated by the District of Columbia Housing Authority.

Head of Household - the person who serves as the basis for income eligibility and rent determination and assumes legal responsibility for the household. The Head of Household is also the person with sole authority to remove members to the Family composition and request adding Family members under the HCVP.

Higher cost area - an area where a higher subsidy amount shall be paid for a Family because of higher payment standard amounts or “more generous” subsidy standards (for example, the Receiving PHA issues a three (3) bedroom voucher to a Family that received a two (2) bedroom voucher in DCHA).

HOAP Applicant Family - an Eligible Family that has been issued a Certificate of Completion and is in the process of obtaining a Preliminary Certificate of Assistance; Mortgage Pre-approval; Home Search Authorization; Final Certificate of Assistance.

HOAP Participating Family - A HOAP Applicant Family who has completed all the steps necessary to the purchase of a home and closed on their mortgage loan.

HOAP Subsidy or HCV/HOAP Assistance - the home ownership subsidy assistance for payment to a mortgage lender on behalf of a Participating Family as provided through the Housing Choice Voucher program in the amount as determined under § 9212.2.

Housing Choice Voucher Program (HCVP, HCV Program, Housing Program, or the Program) - the rental assistance program established by Section

8 of the United States Housing Act of 1937, 24 U.S.C. § 1437f (2006), in its entirety, unless otherwise specified.

Housing Quality Standards (HQS) - standard housing and minimum health and safety criteria for housing units as determined by HUD.

HQS HAP Abatement - when Housing Assistance Payments (HAP) are stopped, recaptured, or DCHA makes reasonable attempts to recapture from an owner HAP within one hundred and eighty (180) days of the date of a failed inspection.

Immediate family member - a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands *in loco parentis*; or any other person living in the household of that person and related to that person by blood, marriage, or operation of law.

Income Eligible Family - a Family that meets the eligibility requirements set forth in § 9203.2(c).

Independent Student - an applicant or participant who lives apart from his or her parents and whose parents' income will not be considered when determining the student's eligibility for participation in the HCVP pursuant to § 5105.3 of this title.

Institution of Higher Education - the types of institutions defined in the Higher Education Act of 1965, 20 U.S.C. § 1002 (2006).

Lease-Purchase Agreement - an agreement with an option to purchase a property entered into between a property owner and a tenant with the objective of the tenant having a right to exercise the right to purchase the leased property within a specified period time.

Live-in aide - a person who resides with one (1) or more elderly persons, near-elderly persons, or persons with disabilities, and who:

- (a) Is determined to be necessary for the care and well-being of the person(s);
- (b) Is not otherwise legally or financially obligated for the support of the person(s); and
- (c) Would not be living in the unit except to provide the necessary supportive services.

Local preference definitions shall have the same meaning as the terms defined in § 7605.

Membership Share - ownership of a share of a cooperative that gives the shareowner the right to reside in a particular unit in the cooperative and the right to participate in management of the housing.

Minor - a person under the age of eighteen (18).

Misrepresentation - the wrongful presentation of facts with an intention to mislead a person or authority thereby drawing undue advantage.

Monthly income - one-twelfth (1/12) of Annual Income.

Near Elderly shall have the definition set forth in 24 C.F.R. §5.403, as may be amended from time to time.

Omission - failure to perform an act agreed to, where there is a duty to an individual or the public to act.

Other Adult - a Family member who is not the Head of Household or the spouse of the Head of Household and is eighteen (18) years of age or older, who is not a person that is enrolled in school full-time or is disabled. Live-in aides are not considered to be other adult Family members

Owner - any person or entity, including a cooperative, having the legal right to lease or sublease existing housing.

Parents - biological or adoptive parents, stepparents (as long as they are currently married to or in a civil union or domestic partnership with to the biological or adoptive parent), guardians and kinship care providers (such as grandparents, aunt or uncle, and godparents).

Participant - only Heads of Household and does not include any other member of the HCVP household composition.

Participating Lender - a lender who has agreed to participate in the HCV/HOAP and provide loans to borrowers under the terms and conditions of this program and has agreed to make loans to Participating HOAP Families which comply with the regulations herein, and are characterized by reasonable interest rates and repayment terms.

Payment Standard - the maximum monthly assistance payment for a Family as determined in accordance with chapter 53 of this title of the DCMR.

Person with a Disability shall have the definition set forth in 24 C.F.R. §5.403, as may be amended from time to time.

Public Housing Authority (PHA) - any HUD-approved entity that provides public housing and subsidized housing programs outside of the District of Columbia.

Spouse - the marriage partner of the Head of Household.

Stalking - following, pursuing, or repeatedly committing acts with the intent to kill, injure, harass, or intimidate another person; or placing under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, placing a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

Total Tenant Payment (TTP) - the amount toward the rent payable by a tenant, determined in accordance with chapter 53 of this title of the DCMR.

Threatened use of physical force - any verbal or written, or physical gestures that communicate an intent to cause serious bodily injury or property damage.

Up-front income verification (UIV) - the use of the verification tools available from independent sources that maintain computerized information about income and benefits.

Veteran - a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Violent criminal activity - any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Ward – an individual who a Court determines is an incapacitated person as defined in D.C. Official Code § 21-2011(11) (2011 Supp.).

Zero assistance - DCHA is not providing a participant any HAP towards the monthly rent because the participant's income is sufficient to pay the Contract rent.

SOURCE: Final Rulemaking published at 59 DCR 7956 (June 29, 2012).

