

RESOLUTION 16-25

TO ADOPT FINAL REGULATIONS TO ALLOW TRIENNIAL RECERTIFICATION FOR ELDERLY AND DISABLED FAMILIES ON A FIXED INCOME

WHEREAS, the District of Columbia Housing Authority (DCHA) administers the Housing Choice Voucher Program (HCVP) and Low-Income Public Housing (LIPH) in the District of Columbia; and

WHEREAS, the Department of Housing and Urban Development requires that DCHA collect information from participants in its programs every year to ensure they remain eligible; and

WHEREAS, as part of its Moving to Work (“MTW”) authority, DCHA has adopted regulations allowing HCVP participants and Public Housing tenants to recertify biennially, rather than annually; and

WHEREAS, DCHA wishes to allow certain elderly and/or disabled families on a fixed income to recertify triennially; and

WHEREAS, Section 6-203(12) of the District of Columbia Housing Authority Act of 1999, as amended (the “Act”), empowers the District of Columbia Housing Authority (“DCHA”) to adopt and implement administrative procedures in compliance with District of Columbia’s Administrative Procedures Act;

NOW THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the District of Columbia Housing Authority that the amendments of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Chapter 54 (Verification Procedures), Chapter 55 (Portability), Chapter 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program), Chapter 61 (Public Housing: Admission and Recertification), Chapter 62 (Rent Calculations), and Chapter 98 (Public Housing: Achieving Your Best Life Rewards Property Program), attached hereto, be adopted as proposed herein as Final Regulations.

ADOPTED, by the Board of Commissioners of the District of Columbia Housing Authority and signed in authentication of its passage the 9th day of November, 2016.

ATTEST:

APPROVAL:

Adrienne Todman
Executive Director/ Secretary

Terri Thompson
Chairman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Kenneth S. Slaughter
General Counsel

ATTACHMENT

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), hereby gives notice of its intent to adopt the following amendments to Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Chapter 54 (Verification Procedures), Chapter 55 (Portability), Chapter 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program), Chapter 61 (Public Housing: Admission and Recertification), Chapter 62 (Rent Calculations), and Chapter 98 (Public Housing: Achieving Your Best Life Rewards Property Program) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to allow elderly and/or disabled public housing and Housing Choice Voucher Program families living on a fixed income to recertify triennially, rather than biennially.

The proposed rulemaking was published in the *D.C. Register* on October 7, 2016, at 63 DCR 12368. This rulemaking was adopted as final at the Board of Commissioners regular meeting on November 9, 2016. The final rules will become effective upon publication of this notice in the *D.C. Register*. **Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14, HOUSING, of the DCMR is amended as follows:**

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

5311. APPLYING UTILITY ALLOWANCES

5311.1 PROGRAM DESCRIPTION

The purpose of the simplified calculation of utility allowances for Housing Choice Voucher participants is to enable program participants, landlords, and PHA to be able to easily calculate a participant utility allowance utilizing one

utility schedule. The new utility allowance is based on the lower of the bedroom size or voucher size, source of heating, electricity, and whether the participant is responsible for paying water and sewer usage. The utility consumption rates for the District of Columbia shall be reviewed annually and if there is a change of 10% or more the simplified utility allowance schedule shall be adjusted accordingly.

- 5311.2 The utility allowance is calculated for each Family based upon DCHA's utility allowance schedule. The schedule is based on the average utility costs in the District of Columbia. The utility allowance schedule set by DCHA applies to all assisted program types.
- 5311.3 A DCHA established utility allowance schedule is used in determining Family Share and HAP. DCHA shall use the appropriate utility allowance as calculated by Section 5332.
- 5311.4 DCHA, under its MTW Authority, established its "Simplified Utility Allowance Schedule". The following provisions shall apply to calculating utility allowances:
- (a) DCHA shall use a simplified schedule to calculate utility allowances at the time of a Family's initial lease-up, periodic recertification, interim recertification, or when a family transfers to another unit pursuant to § 5333 -- Family Moves;
 - (b) The utility allowance calculation for all participants shall be determined using one structure type selected by DCHA annually.
 - (c) Generally, DCHA shall determine the structure type to by using the most commonly rented structure type based on the previous fiscal year.
 - (d) At its discretion, DCHA may select a structure type larger or smaller than the most commonly rented structure type if it determines that selecting the most common structure type may cause a disproportionate number of hardships or disproportionate number of excessive allowances to Families.
 - (e) Based on the structure type chosen, DCHA shall provide to all Families a flat allowance for tenant-paid gas and electric, an additional flat allowance if the unit is all electric, and an additional flat allowance if the participant is also responsible for water and sewer.
- 5311.5 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.
- 5311.6 In the event of an interim recertification, DCHA shall use the utility allowance schedule in effect at the time of the family's last periodic recertification. Revised utility allowances shall be applied to a Family's rent and subsidy calculations at the first periodic recertification that is effective after the allowance is adopted.

5312. PERIODIC RECERTIFICATION OF INCOME

- 5312.1 Families shall be requested to submit a recertification packet which includes some of the following information on income, assets, allowances and deductions, and Family composition at least biennially, unless they qualify for triennial periodic recertification as described in §5312.4.
- 5312.2 When families move to another dwelling unit, the Family may be required to complete an interim recertification.
- 5312.3 If the Family reports a change which results in an increase or decrease in the TTP, other than in response to a periodic recertification, it shall be considered an interim adjustment.
- 5312.4 A family may be permitted to recertify triennially, rather than biennially, if all members of the household are
- (a) Elderly and/or disabled; and
 - (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

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 periodic recertification effective date, the Head of Household shall be notified by mail that she or he is required to complete a recertification packet by a specified date. The notice shall tell the participant which documents to submit.
- 5313.2 The Head of Household may be required to 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.

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 may 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 periodic 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.

5315. CHANGES IN INCOME

- 5315.1 Families shall not be required to report any increase in household income between periodic or interim recertifications. Any increase in income shall only be included in the determination of annual household income at the next periodic recertification.
- 5315.2 If the Family has household income and adds an adult Family member with a source of income, DCHA shall only include the new adult member income, as applicable, in the determination of annual household income at the next periodic recertification.
- 5315.3 If a zero income family adds an adult member with a source of income, DCHA shall the new income in the determination of annual household income effective the first of the month following the DCHA approval of the new adult member.
- 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.

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 may 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.

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 not been terminated or is not currently being recommended for termination;
 - (b) Is in good standing with the lease in the current unit (no outstanding rent or tenant-responsible utility bills); and
 - (c) Does not have any current tenant-caused HQS violations in their existing unit.
- 5333.5 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) DCHA may grant an emergency transfer upon request from the OAG, DOJ, or USAO as a matter of safety; or for witness protection if the family is within the first year of their lease. Where feasible, DCHA shall seek the written authorization of the Landlord to release the family prior to making any decision about allowing the family to move to another unit, if the family is in the first year of their lease; or
 - (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.
- 5333.6 Families may choose to request only one (1) transfer voucher annually, no earlier than 30 days before the month they last entered into a lease and no later than 30 days after they last entered into a lease unless the Family qualifies for one (1) of the emergency conditions as stated in § 5333.6.

Chapter 54, VERIFICATION PROCEDURES, of Title 14, HOUSING, of the DCMR is amended as follows:

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 periodic 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 periodic 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.

5403. FAMILIES WHO REPORT NO INCOME

5403.1 During any periodic 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.

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 periodic recertification process; and
- (b) DCHA shall not consider imputed income from assets in the calculation of total annual income.

Chapter 55, PORTABILITY, of Title 14, HOUSING, of the DCMR is amended as follows:

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 periodic 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 periodic 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 periodic 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.

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 periodic Recertification initiatives;
 - (c) Send the Initial PHA a copy of the updated HUD Form-50058 at each periodic 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 periodic 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 form HUD Form-50058 by the periodic 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.

Chapter 58, OWNER EVICTION GUIDELINES AND GROUNDS FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, of Title 14, HOUSING, of the DCMR is amended as follows:

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 a periodic 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.

5808.3 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.

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 periodic 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.

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, of Title 14, HOUSING, of the DCMR is amended as follows:

6118. RECERTIFICATION

6118.1 Lessee shall recertify, periodically as determined by § 6118.2, and shall be responsible for providing to DCHA a completed application for continued occupancy, including the appropriate verification forms. The forms are those provided by or otherwise authorized by DCHA. The Lessee's responsibility to provide a completed application for continued occupancy, including the appropriate verification forms shall include but is not limited to the following:

- (a) Lessees shall be required to return the recertification package including any required substantiating documentation or verification forms to DCHA within thirty (30) days of receipt of the recertification package;
- (b) Lessee shall obtain from other household members any information, documentation and signatures, as DCHA may require, when submitting a completed application for continued occupancy, including the appropriate verification forms as DCHA may require;
- (c) The Lessee shall provide DCHA, for each household member, to DCHA a listing of the exact amount of income or benefits, from whatever source and the exact source of the income or benefit;
- (d) The Lessee shall provide certification from all adult household members that their income has been accurately reported;
- (e) Lessee shall provide the full name, gender, Social Security Number and date of birth for each household member;
- (f) Lessee shall provide to DCHA proof of the Lessee's and/or any household member's enrollment in an educational facility and shall provide this information for any household member that Lessee is seeking to add;
- (g) Lessee's who wish to remove a household member from the household shall have the burden of proof that such person has permanently vacated

the Leased Premises and must submit documents satisfactory to DCHA, in accordance with Subsection 6119.1, that the household member is residing elsewhere; and

- (h) If the Lessee has misrepresented or failed to submit timely to DCHA any facts used in the determination of rent, whether intentionally or by mistake, DCHA may charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted timely by the Lessee. This amount, the basis for the charge, and notice of the Lessee's grievance rights will be made available to lessee in writing by DCHA. This amount shall be posted to the Lessee's account and rent statement. Lessee shall receive written notice of the new amount which shall be due as stated in the notice, but not less than thirty (30) days from the date of the notice. A failure to accurately report income, deductions, family composition, or any other information may result in legal action being taken by DCHA or law enforcement agencies.

6118.2 Lessee shall recertify biennially unless they qualify for triennial recertification, as described in § 6118.3.

6118.3 To qualify for triennial recertification, all members of the household must be:

- (a) Elderly and/or disabled; and
- (b) Earning fixed income only. Fixed income shall be defined as non-wage income of a fixed monthly or yearly amount.

Chapter 62, RENT CALCULATIONS, of Title 14, HOUSING, of the DCMR is amended as follows:

6200. RENT CALCULATIONS

6200.1 Notwithstanding provisions which may appear elsewhere in this subtitle, each tenant shall pay, as tenant rent, one of the following:

- (a) Income-based rent as the greater of one twelfth (1/12) of thirty percent (30%) of adjusted income or one twelfth (1/12) of ten percent (10%) of the annual income. The value of any assets or imputed income from assets shall not be used in the calculation of income based rent. Actual net income from assets greater than the threshold described above shall be included in the determination of adjusted income;
- (b) Market-based rent which shall not be lower than 80% of the applicable United States Department of Housing and Urban Development (HUD) Fair Market Rent (FMR) for applicable Metropolitan Statistical Area. If the Market-based rent is less than income-based rent, as determined by DCHA, the family shall pay the lower;

(1) Pursuant to HUDs PIH Notice 2014-12 implementing Sections 210 and 243 of Title II of Pub.L. 113-76, the Consolidation Appropriations Act of 2014, if the application of the flat rent rule increases a family's existing rent by more than 35%, then the market-based rent amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35% biennially.

(c) If the family is determined by DCHA to have no adjusted income, the family shall pay minimum rent as provided in § 6210.

6200.2 Any changes in tenant rent shall be stated in a special supplement to the lease, which shall, upon issuance, become a part of the dwelling lease. The special supplement to the lease shall constitute the tenants thirty (30) day written notice of an increase in tenant rent. The family shall be provided a copy of the special supplement to the lease.

6200.3 A copy of the market-based rent schedule for a property shall be available at each property management office, on the DCHA web site, or can be requested from the DCHA.

6200.4 At initial lease-up and with each periodic recertification or interim recertification, DCHA shall calculate the family's income-based rent. If the market-based rent, as listed in the current market-based rent schedule for the property, is less than the family's income-based rent, the family shall pay the lower amount.

6200.5 If a tenant is paying a market-based rent, the tenant shall:

(a) Submit an interim recertification in accordance with § 6117 for any change in family circumstances. Change in family circumstances may include, but shall not be limited to, reductions in income, employment, or other assistance; or increases in expenses for medical costs, child care, transportation, or education pursuant to § 6119; and

(b) Provide DCHA with a completed application for continued occupancy, in accordance with § 6118.

6200.6 All changes in tenant rent, both income-based and market-based and whether after an interim or periodic recertification, shall be implemented in accordance with §§ 6118, 6119, and this chapter.

6200.7 In properties where utilities and other essential services are supplied to the tenant by DCHA, tenant rent payable to DCHA under the dwelling lease shall be the same as total tenant payment.

6200.8 Tenant rent shall be computed after both annual income and adjusted income have been verified.

6200.9 The tenant shall receive retroactive credit to credit an administrative error.

6200.10 Tenants occupying property for a portion of a month at the time of move-in shall be charged a pro-rata share of the full monthly rate determined by DCHA.

6200.11 Allowances and special deductions:

- (a) In properties where tenants are responsible for paying for their own utility bills, the utility allowance shall be subtracted from the total tenant payment to determine the tenant rent payable to DCHA. If the tenant rent resulting from the subtraction of the utility allowance from the total payment is negative, DCHA shall send a monthly check in the amount of the difference to the tenant.
- (b) At Redeveloped Properties or Service Rich Properties, as defined in 14 DCMR Section 6113, which an Association Fee is assessed, residents at such properties may be required to pay an amount calculated to equal the Association Fee attributable to the unit and shall be granted an allowance reflecting the Association Fee payment. The allowance shall be subtracted from the tenant rent to determine the tenant payment as follows:
 - (1) Any utility allowance shall be deducted from the tenant rent first. The allowance for the Association Fee shall be deducted from any remaining positive amount. If the deduction of the utility allowance results in a negative rent there shall be no charge for an Association Fee and no deduction for the Association Fee allowance. If the deduction of the Association Fee allowance results in a negative amount, the required Association Fee payment from the tenant and its associated allowance shall be reduced so that the tenant rent is zero.
 - (2) If the tenant fails to pay the Association Fee on time, the fee shall be converted to rent, not to exceed 30% of adjusted income, when added to the monthly rent, for the month in which the fee was paid.
 - (3) If the Association Fee is paid after entry of judgment as part of the payment required to avoid eviction, the fee shall be recorded as the Association Fee, and the ledger shall be updated to reflect the tenant's payments.

6214. NEIGHBOR TO NEIGHBOR CARE PROGRAM

6214.1 Purpose of the Program. The District of Columbia Housing Authority (“DCHA”) Neighbor to Neighbor Care Program is a program designed to assist public housing residents participate in activities that are a benefit to themselves and the community. The Neighbor to Neighbor Care Program is designed to give families a greater ownership in their communities and to facilitate upward mobility. Participation for certain residents is required by HUD, participation for others is voluntary. The objective, whether participation is voluntary or required, is to facilitate residents achieving economic self sufficiency and contributing to their

neighbors and community.

6214.2 Voluntary or Required Participation

- (1) All adult members of a household leasing a rental unit in a public housing development exempt or non-exempt under 6214.3, may participate in any Approved Service Program as identified in 6214.4.
- (2) Each adult member of a household leasing a rental unit in a public housing development, unless exempt under Subsection 6214.5, shall, as a condition of their continued occupancy, contribute the equivalent of eight (8) hours per month, for a total of at least 96 hours in any given year, in an approved voluntary community service activity as specified in 6214.4.
- (3) Political activities, including campaigning, voter registration, voting or getting out the vote, do not qualify for meeting the Participation Requirement specified in 6214.2(2) above. Work that is compensated as employment does not qualify to meet the Participation Requirement.

6214.3 Exemptions

- (1) Certain adult household members are exempt from required participation in the Neighbor to Neighbor Care Program if they can document that they are:
 - (a) 62 years old or older;
 - (b) Blind or disabled as determined in accordance with Federal regulations implementing the Social Security Act;
 - (c) The primary caretaker of an individual identified in (b) above;
 - (d) Engaged in one, or a combination of, the work activities identified below for at least the same number of hours per week (or total over the course of a year) as specified in 6214.2(2) above:
 - (i) Employment;
 - (ii) on-the-job training,
 - (iii) job search and job readiness programs, including, but not limited to, registration with the Department of Employment Services and the DCHA Section 3 program.
 - (iv) job skills training directly related to employment,
 - (v) vocational educational training,
 - (vi) education directly related to employment, for individuals who have received a high school diploma or a certificate of general equivalence;

- (vii) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence,
 - (viii) provision of child care services to an individual who is participating in a Neighbor-to-Neighbor activity or an activity that exempts an individual from required Neighbor-to-Neighbor activities.
- (e) Exempt from having to engage in a work activity under a Qualified Assistance Program,
 - (f) A member of a family receiving assistance, under a Qualified Assistance Program, provided that the family has not been found by the administering agency to be in noncompliance with such program;
- (2) DCHA shall review the exempt status of each adult family member as part of the recertification process.

6214.4 Approved Service Programs

- (1) The Office of Resident Services shall maintain a list of approved Neighbor to Neighbor sponsors and activities which offer opportunities for service and economic and educational advancement for residents. The list shall be available to the DCHA City Wide Advisory Board and all DCHA Resident Councils as well as from each Property Manager.
- (2) Additional programs and activities may be approved and added to the list from time to time, as follows:
 - (a) A resident may request the addition of a Service Program to the list by submitting documentation from the sponsor of the -Program as to the Program's activities and an authorized representation that it does not engage in political activities and that the resident will not be employed by the Program.
 - (b) Any Resident Council or the City Wide Advisory Board may request the addition of a Program by submitting documentation about the Program as to the scope of its activities and that the Program is not engaged in political activities.
- (3) Approved Service Programs may include programs and activities such as those listed below.
 - (a) Voluntary Community Service Activities, such as: Serving in leadership positions in the Resident Council, District of Columbia City-Wide Advisory Board, the DHCA Board of Commissioners or the Resident Advisory Committee, but no political activities or voter registration activities.

- (b) Resident Council or City-Wide Advisory Board sponsored Service Programs
- (c) Participating in DCHA sponsored community service programs, including but not limited to Orange Hat patrols, building playgrounds and landscaping events;
- (d) Tutoring or other support program at a local public or private school in the resident's community
- (e) Participation in church sponsored programs that support the community and individuals in the community
- (f) Civic and public interest organizations, such as the Boys and Girls Clubs of Greater Washington, United Way, AmeriCorps and Vista;
- (g) Volunteer and support programs at a local public or non-profit institution, such as the public, charter or private school, Head Start, before or after school programs, childcare center, hospital, clinic, hospice, nursing home, recreation center or senior center.
- (h) Educational Advancement Programs, such as:
 - (i) English proficiency or literacy classes;
 - (ii) English as a second language classes;
 - (iii) Financial Management;
 - (iv) Credit Counseling;
 - (v) Household Management; or
 - (vi) Others as approved by DCHA.

6214.5 Reporting

- (1) All adult family members required to participate in the Neighbor-to-Neighbor program shall provide to DCHA as part of the family's recertification package, a signed statement by each such adult describing the Neighbor-to-Neighbor activities pursued since the household's last recertification-and certifying the hours of service provided.
- (2) Each adult family member claiming exemption from required Neighbor-to-Neighbor program participation according to the provisions of 6214.3, above shall provide to DCHA as part of the family's recertification package:
 - (a) a signed statement by each adult claiming an exemption certifying either:

- (i) a statement of the basis of the exemption under 6214.3 (a) - (c) (e) or (f) hereinabove, or
 - (ii) a description of the work activities pursued by each exempt adult member under 6214.3(d) hereinabove.
- (3) DCHA may require a release from the family member authorizing DCHA to obtain verification of any or all information provided in the household's annual report of Neighbor-to-Neighbor activities and DCHA may, subsequent to submission, seek third party verification of any or all information supporting an exemption.
- (4) The provision of false certifications or information that cannot be verified by a third party shall be cause for a determination of non-compliance in accordance with 6214.6 below.

6214.6 Compliance and noncompliance.

- (1) At least thirty days prior to the household's periodic recertification date, DCHA shall determine that the head of household and all adult family members that are not otherwise exempt hereunder have met the Participation Requirement through taking part in one or more Approved Service Programs.
- (2) If DCHA determines that a family member who is required to fulfill the Participation Requirement failed to meet the requirement, DCHA shall provide written notice to the family member of DCHA's determination which shall describe such noncompliance.
- (3) DCHA shall provide an opportunity for the head of household and noncompliant family members to cure the non-compliance by:
 - a) Entering into a written agreement whereby the head of household and/or noncompliant family member agree to a Personal Service Plan that provides for the hours required under 6214.4(2) or 6214.5(d) above, as well as the hours that were not provided in the preceding year, over the next twelve. (12) month period;
 - b) Agreeing to a date certain to vacate the leased premises.
- (4) If at the next recertification, any adult family member is still not in compliance, DCHA may serve a notice to quit or cure and, unless the head of household provides third party documentation in form satisfactory to DCHA that the noncompliant family member no longer resides with the family in the unit, then DCHA will seek judicial termination of the household's lease.
- (5) A head of household may request a grievance hearing on DCHA's determination of noncompliance in accordance with the provisions of

Chapter 63 of this Title.

6214.7 Definitions.

- (a) “Adult” means any individual. 18 years of age or older residing in a unit owned by DCHA.
- (b) “Approved” means any approval' provided by DCHA to the head of household and/or a family member in writing.
- (c) “Approved Service Program” is a program approved by DCHA in accordance with 6214.4 hereof.
- (d) “Exempt” means an individual for whom participation is not required but only voluntary as a result of one or more of the conditions described in 6214.3.
- (e) “Family Member” means all authorized occupants under the lease agreement with DCHA, excluding Live-in-Aides.
- (f) “Head of Household” means the individual(s) who signed the lease agreement with DCHA.
- (g) “Participation Requirement” is the service requirement specified in Section 6214.2(2) and met through participation in an Approved Service Program.
- (h) “Qualified Assistance Program” is a District of Columbia program funded under Part A of Title IV of the Social Security Act, 42 U.S.C. § 601 et seq. or under any other District of Columbia welfare program including a welfare to work program.

**Chapter 98, PUBLIC HOUSING: ACHIEVING YOUR BEST LIFE REWARDS
PROPERTY PROGRAM, of Title 14, HOUSING, of the DCMR is amended as follows:**

9806. AYBL PROGRAM ELIGIBILITY DETERMINATION

- 9806.1 Only AYBL Applicant families who are determined eligible and successful in being selected in the appropriate lottery will be placed on an AYBL Site-based Transfer Waiting List(s) for which the family has chosen to be listed.
- 9806.2 AYBL Family will be selected without regard to race, color, religion, sex, handicap, familial status, or national origin.
- 9806.3 The DCHA shall consider an AYBL Applicant Family eligible for participation in the AYBL program if the AYBL Applicant Family meets the following criteria:
 - (a) Is a current resident in a DCHA subsidized conventional public housing unit, in a mixed finance unit subsidized by an Annual Contributions Contract, or is currently in the selection pool;

- (b) Can demonstrate at least one (1) year of timely rental payment history with DCHA or in the private market;
- (c) Bedroom size requirement meets the unit composition of the Reward Property and established DCHA Occupancy Standards of this chapter;
- (d) Income eligible: minimum earned income of the potential borrower/co-borrower or renter of no less than thirty-two thousand dollars (\$32,000) from employment or in the case where the potential borrower/co-borrower or renter is elderly and/or disabled certain unearned income (for example, SSI, SSDI, pension payments, etc.) may be counted toward the thirty-two thousand dollars (\$32,000) minimum. DCHA may from time to time change the minimum income eligibility requirement.
- (e) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement in AYBL, except as follows:
 - (1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option;
 - (2) An individual who is now single, but had previously owned a home with his or her former spouse even within the three (3) year period;
 - (3) A household in which a family member is a person with a disability, if homeownership assistance is needed as a reasonable accommodation; and
 - (4) A family that owns or is acquiring shares in a cooperative.
- (f) Be a DCHA resident in Good Standing:
 - (1) Timely completion of periodic and interim recertifications;
 - (2) No instances of unreported income;
 - (3) No current debt owed (i.e., rent, excess utility charges, maintenance charges, etc.) to DCHA, federally funded housing program, and any court or in-house repayment agreements must be paid off prior to application to the AYBL program.
 - (4) No more than four (4) late rental payments, in either public housing or the private market, within the twelve (12) months prior to approval of an AYBL application provided that the payment is received within the month that the rent is charged. For other charges (i.e., excess utility charges, maintenance charges, etc.) payment must have been made within thirty (30) days of the date of the charge.

- (5) Passed scheduled DCHA inspections that were conducted in the unit within the past twelve (12) months from the date of AYBL application submission;
- (6) No legal actions for non-curable violations of the lease within the last five (5) years at the time of AYBL application submission;
- (7) No repeated breaches of other terms of the Lease by the Lessee(s) or any household member identified in the Public Housing dwelling lease;
- (8) Pass a separate DCHA AYBL Home Visit inspection.
- (9) Pass a criminal background check that will be conducted on all household members who are eighteen (18) years of age or older pursuant to 14 DCMR § 6109.

9806.4 At the time a unit offer is made, the family must continue to be in compliance with the eligibility requirements of the program and the qualifying bedroom size based on their current family composition. If the family is determined not to require the bedroom size for which they were initially placed on the waiting list, the family will be placed at the bottom of the waiting list for the appropriate bedroom size if such a bedroom size exists at the property. If the family is determined to be ineligible, they will be removed from the waiting list.

- (a) While on an AYBL Site-based Transfer Waiting List, applicants will be responsible for reporting any changes to income and household composition to DCHA.
- (b) When an AYBL Family has been on an AYBL Site-based Transfer Waiting List for more than one (1) year prior to a unit coming available at a Rewards Property, DCHA will update the screening information to determine if the family is still eligible before assigning the family an available unit.
- (c) If the family is determined to be no longer eligible for the AYBL program, DCHA will notify the family in writing. The notification will include the reason for the ineligibility determination.

9806.5 The AYBL Family will be required to execute a Contract of Participation and the ITSP form within fourteen (14) calendar days of notification of availability of a Rewards Property unit.

9806.6 Once the Contract of Participation has been executed, the AYBL Family must execute the Dwelling Lease and move into the Rewards Property unit, within ten (10) calendar days of a Rewards Property unit becoming available. The AYBL Family is responsible for relocation costs.

9821. DEFAULT

9821.1 If an AYBL Family defaults under any of the terms of the Contract of Participation, the tenancy shall automatically convert to a conventional public housing tenancy. All sums due pursuant to the Contract of Participation shall be deemed rent and are payable to DCHA. The AYBL Family shall transfer to a conventional public housing unit pursuant this chapter. DCHA shall be entitled to initiate legal action in any appropriate forum for possession and/or rent.

9821.2 The rent will be re-calculated in accordance with the standards set forth in 14 DCMR chapter 62. DCHA will initiate an interim recertification to determine the new rent amount based on the information currently available in DCHA records.

9821.3 Events of default include but are not limited to:

- (a) any breach of the Contract of Participation or of the AYBL Lease Addendum;
- (b) failure to make any required payment under the AYBL Lease Addendum;
- (c) failure to maintain the balance in their maintenance escrow account due to tenant caused damages;
- (d) failure to timely pay escrow and/or rent;
- (e) failure to attend required training sessions or meetings;
- (f) failure to submit interim or periodic recertification;
- (g) failure to report increases in income in accordance with recertification regulations; and
- (h) failure to report changes in family composition;

9821.4 Upon default or voluntary termination of the Contract of Participation or non-payment of escrow accounts, all escrow accounts are deemed rent and subject to the jurisdiction of the D.C. Superior Court Landlord Tenant Branch.

9821.5 In the event the family is in default of their Contract of Participation, DCHA shall provide a written Notice of Non-Compliance. The AYBL family will have an opportunity to meet with DCHA staff, examine any documents, records and/or regulations that are the basis of the default and have the opportunity to cure or correct the default. The family must cure the default within six (6) months from the date of the Non-Compliance or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.

9821.6 In the event the family is in default of their Contract of Participation, DCHA shall provide written notice of the default, an opportunity to meet with DCHA staff, and the opportunity to cure or correct the default. The family must cure the

default within six (6) months from the date of the notice or by the end of the term of their Contract of Participation, whichever is shorter. The notice shall be mailed or hand delivered to the family at their unit in the AYBL Rewards Property.