

I. TERMINATION OF ASSISTANCE

The CDC shall terminate the assistance of a family if any household member is currently engaged in any illegal use of a drug, has ever been convicted of drug-related criminal activity for manufacture, production or distribution of methamphetamine on the premises of federally assisted housing, is convicted of other drug-related criminal activity, violates the family obligation not to engage in criminal activity or is convicted of alcohol-related offenses in a pattern of at least three convictions within a one year period. Other crimes committed while under the influence of alcohol are covered by the criminal activity references in this section and the family obligations.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence. Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant/participant's household or any guest or other person under the tenant/participant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant/participant or an immediate member of the tenant/participant's family is the victim or threatened victim of that domestic violence. This does not limit the authority of the CDC to:

1. Terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.
2. Terminate voucher assistance to a tenant/participant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant/participant's household, provided that the CDC does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants/participants in determining whether to terminate.
3. Terminate public housing or voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants/participants or those employed at or providing service to the property or CDC if that tenant/participant is not evicted or terminated from assistance.
4. Bifurcating Leases – An owner or manager may bifurcate a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting,

removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

5. Upon relocation of the victim of domestic abuse or stalking, the CDC shall terminate the assistance of the remaining family if the perpetrator of the domestic abuse or stalking remains in the household.

Use of Criminal Record

Denial. If the CDC proposes to deny admission for criminal activity as shown by a criminal record, the CDC must provide the subject of the record and the applicant with a copy of the criminal record. The CDC must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with Sec. 982. 554.

If the CDC proposes to terminate assistance for criminal activity as shown by a criminal record, the CDC must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. The CDC must give the family an opportunity to dispute the accuracy and relevance of that record in accordance with Sec. 982. 555. All information about a victim of domestic violence or stalking that is provided to the CDC and utilized for the purpose of terminating the assistance of the perpetrator or of a household who has a household member who is a perpetrator of domestic violence or stalking shall be maintained confidential pursuant to the Violence Against Women Act.

Cost of Obtaining Criminal Record.

The CDC may not pass along to the applicant, participant or live-in aide the costs of a criminal records check. Permitted use and disclosure of criminal records/sex offender registration records received by the CDC may only be used for applicant screening and/or for lease enforcement and termination. The CDC may disclose criminal convictions as follows:

- (1) To officers or employees of the CDC, or to authorized representatives of the CDC who have a job-related need to have access to the information. For example, if the CDC is seeking to terminate assistance of a Housing Choice Voucher participant on the basis of criminal activity/sex offender status as shown in criminal conviction records, the records may be disclosed to CDC employees performing functions related to the termination or to a CDC hearing officer conducting an administrative grievance hearing concerning the proposed termination.

- (2) If a CDC obtains criminal records from a State or local agency showing that a household member has been convicted of a crime/sex offense relevant to applicant screening or tenant lease enforcement or termination, the CDC must notify the household of the proposed action based on the information obtained. The CDC must also provide the subject of the record and the applicant or participant a copy of such information before a denial of admission, termination or lease enforcement action on the basis of such information.

If, at any time during the program participation, the CDC has a documented reasonable cause (e.g., newspaper articles, credible informants, police reports) to believe that a household member is engaged in drug-related or other criminal activity which would pose a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents or CDC employees, the CDC may run a subsequent criminal check of that household member.

Consideration of Circumstances

In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

1. The CDC may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstance related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.
2. In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the CDC may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U. S. C. 13661). For this purpose, the CDC may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully
3. If the family includes a person with disabilities, the CDC decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

Records Management

All criminal information received will be maintained confidentially and not misused, or improperly disseminated.

All information provided to an owner, manger, or CDC pursuant to VAWA, including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or CDC, and shall neither be entered into any shared database nor be provided to any related entity, except to the extent that disclosure is requested or consented to in writing by the individual; required for use in an eviction proceeding of an abuser, stalker or perpetrator of domestic violence; or is otherwise required by applicable law.

Such information may be housed in a locked file with access restricted to individuals responsible for screening and determining eligibility and to the Executive Director.

If the applicant is determined to be eligible, the criminal report shall be shredded as soon as the applicant is housed. If the applicant is denied assistance, the criminal record information shall be destroyed immediately upon completion of the hearing or due process procedures and a final decision has been made.

All information received from a drug treatment facility must be maintained confidentially and not be misused improperly or disseminated.

The information must be destroyed either:

1. No later than ten (10) calendar days after the CDC makes a final decision to admit the person to the HCV Program; or
2. If the CDC denies admission, the CDC will destroy the information in a timely manner after the statute of limitations has passed for the individual to file a civil lawsuit.

Drug Treatment Facility Information

As needed during the informal review or hearing process the CDC may seek information from a drug treatment facility to verify that an applicant or participant is participating in or has completed a drug rehabilitation program, or to verify drug-free status.

In such cases the CDC will utilize a written consent form required by 24 CFR 82.553(a) (i) (B). The CDC is not obligated to request information from drug treatment facilities and is not liable for damages for failure to request or receive the information.

All information received from a drug treatment facility must be maintained confidentially and not be misused improperly or disseminated.

The information must be destroyed either:

- No later than ten (10) calendar days after the CDC makes a final decision to admit the person to the HCV Program; or
- If the CDC denies admission, the CDC will destroy the information in a timely manner after the statute of limitations has passed for the individual to file a civil lawsuit.

Components of the Screening Process

A criminal history report may be requested from law enforcement agencies for adult members according to the following procedure:

- a. For all applicable household members, the CDC will submit to a law enforcement agency the name, sex, race, date of birth and social security number.
- b. Based on the identifiers submitted, the law enforcement agency will provide this CDC with any criminal history conviction record information and outstanding warrants that are found on the law enforcement agency Computerized Criminal History database and the appropriate Crime Information Center.
- c. The law enforcement agency may also search the National Crime Information Center (NCIC) for criminal information. If a record exists, the law enforcement agency will notify this CDC that such information was found, and will provide the CDC with a copy of the information.
- d. If the person disputes or contests the criminal history report received by the CDC, the CDC may at this time determine that a fingerprint check is necessary.

In no case will the applicant be charged for the cost of the criminal history checks.