

XVII. MOVES WITH CONTINUED TENANT-BASED ASSISTANCE**Reference: 24 CFR 982.314**

Any italicized text shown in this chapter refers to a regulation.

A. ALLOWABLE MOVES

HUD regulations list conditions under which an assisted family is allowed to move to a new unit with continued assistance. Restrictions to moves are set forth below in part "B" of this chapter.

1. *The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for owner breach, or otherwise) [24 CFR 982.354(b)(3)].*

CDC Policy: If the family terminates the lease on notice to the owner, the family must give CDC a copy of the notice at the same time [24 CFR 982.354(d)(1)].

In such cases, CDC will determine on a case by case basis if this type of relocation would be considered an elective move, therefore the restrictions below apply. When making a determination civil rights laws and regulations will be considered.

2. *The lease has terminated by mutual agreement of the owner and the tenant [24 CFR 982.354(b)(1)(ii)].*

CDC Policy: If the family and the owner mutually agree to terminate the lease for the family 's unit, the family must give CDC a copy of the termination agreement.

In such cases, CDC will determine on a case by case basis if this type of relocation would be considered an elective move, therefore the restrictions below apply. When making a determination civil rights laws and regulations will be considered.

3. *The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)].*

The family must give CDC a copy of any owner eviction notice [24 CFR 982.551(g)].

CDC Policy:

CDC will not consider this type of move to be elective. However, CDC will consider the reasons the landlord has initiated the Termination of

Tenancy. If CDC determine there are grounds for termination of assistance, CDC will act on those grounds.

4. *CDC has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].*

5. CDC determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

In such cases, CDC must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, CDC must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination.

The HAP contract terminates at the end of the calendar month that follows the calendar month in which CDC gives notice to the owner. [24 CFR 982.403(a) and (c)]

6. *The family or a member of the family is, or has been the victim of domestic violence, dating, violence, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member.*

A PHA may not terminate assistance if the family, with or without prior notification to the PHA, already moved out of a unit in violation of the lease, if such move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by the harm from further violence if he or she remained in the dwelling unit [24 CFR 982.354(b)(4)]

B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which CDC may deny a family permission to move and two ways in which CDC may restrict moves by a family.

Denial of Moves: HUD regulations permit CDC to deny a family permission to move under the following conditions:

- ***Insufficient Funding:***

CDC may deny a family permission to move if CDC does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)].

CDC Policy: CDC will deny a family permission to move on grounds that CDC does not have sufficient funding for continued assistance if:

- (a) The move is initiated by the family, not the owner or CDC;
- (b) CDC can demonstrate that the move will, in fact, result in higher subsidy costs; and
- (c) CDC can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

This policy applies to moves within CDC's jurisdiction as well as to moves outside CDC's jurisdiction under portability.

- ***Grounds for Denial or Termination of Assistance:***

CDC has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

CDC Policy: If CDC has grounds for denying or terminating a family's assistance, CDC will act on those grounds in accordance with this Administrative Plan.

Restrictions on Elective Moves

Regulation: [24 CFR 982.354(c)] HUD regulations permit CDC to prohibit a move by a participant family

- *during the family's initial lease term.*
- *if the family is electing to move more than one time during any 12-month period.*

CDC Policy:

CDC will deny a family permission to make an elective move during the family's first year of occupancy. CDC considers the beginning of occupancy the effective date of the Housing Assistance Payment (HAP) Contract.

This policy applies to moves within CDC's jurisdiction or outside CDC's jurisdiction under portability.

CDC will consider exceptions to these policies for the following reasons:

1. To protect the health or safety of a family member (e.g. lead-based paint hazards, domestic violence, and witness protection programs).
2. For purposes of reasonable accommodation for a family member who is a person with a disability.
3. Household's occupying units within Mendocino County that are designed as low barrier housing projects specifically for households who meet the definition of experiencing homelessness or who are at risk of homelessness may be approved to relocate prior to twelve months of occupancy.

These developments provide support staff to help individuals to stabilize and engage in services and resources that support their overall wellbeing and ability to stay housed. These developments are considered permanent housing, with the hope each household will find security in being housed which will ultimately enable them to succeed in ways that are meaningful to them, such as respond to and act on other housing opportunities which are more traditional.

In an effort to make available more low barrier housing opportunities for households experiencing homelessness or who are at risk of homelessness, CDC will consider allowing households occupying these types of units to relocate prior to twelve months of occupancy.

Prior written approval of this type of relocation must be obtained confirming the support staff is in support of the household's relocation.

C. MOVING PROCESS

Notification - *If a family wishes to move to a new unit, the family must notify CDC and the owner before moving out of the old unit or terminating the lease by notice to the owner [24 CFR 982.354(d)(2)].*

CDC Policy:

CDC requires the family to provide CDC with a copy of the written notice to vacate the family supplied to the landlord/owner.

Regulation: *If the family wishes to move to a unit outside CDC's jurisdiction under portability, the notice to CDC must specify the area where the family wishes to move [24 CFR 982.354(d)(2), Notice PIH 2004-12].*

CDC Policy:

When a family notifies CDC they would like to move to a unit outside CDC's jurisdiction, CDC will supply the family with the "Portability Request Form". The family will supply the completed form to CDC which initiates their request to move outside of CDCs' jurisdiction under portability. See Chapter XVI. Portability.

Regulation: The notices must be in writing [24 CFR 982.5].

Approval

CDC Policy:

Upon receipt of a family's notification that it wishes to move, CDC will determine whether the move is approvable in accordance with the regulations as well as the policies set forth in this chapter.

CDC will notify the family in writing of its determination within ten (10) calendar days following receipt of the family's notification.

Re-certification of Family Income and Composition

CDC Policy:

When a household moves into a new unit, a "new" recertification date is established, based on that move. A recertification will be required when a family wishes to move to another dwelling unit. The only exception to this policy, is if a re-certification became effective within the previous thirty (30) calendar days, CDC will not require a re-certification.

For families moving into or families approved to move out of CDC's jurisdiction under portability, CDC will follow the policies set forth in Chapter XVI. Portability.

Voucher Issuance and Briefing

CDC Policy:

All families approved to move to a new unit within CDC's jurisdiction will be required to attend a voucher briefing. The Voucher Briefing will be scheduled within ten (10) calendar days from when the family provided the required documentation for re-certification.

CDC will follow the policies set forth in Chapter VI. pertaining to voucher term, extension, and expiration for all households issued a Housing Choice Voucher.

Housing Assistance Payments [24 CFR 982.311(d)]

CDC Policy:

CDC will allow a grace period of seven calendar days where double subsidy may be paid (7 days of subsidy on the old unit and the new unit at the same time). If the family is still in possession of both units after the seven day grace period ends, the family will be responsible to pay the full rent for the unit they were living

in before the relocation took place. CDC will continue to pay rental assistance to the landlord of the new unit.

Exceptions to the above policy are:

1. Reasonable accommodation for the disabled,
2. Involuntary displacement due to landlord or government action.

