

**III. COMPLETION OF APPLICATION, PREFERENCES, DETERMINATION OF ELIGIBILITY, AND SELECTION OF FAMILIES**

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For additional waiting list/eligibility information specific to the Mainstream Voucher and Family Unification Program refer to Chapter XXVII. and XXVIII. of this Administrative Plan.

## A. PRE-APPLICATION PROCEDURES

A preliminary-application (pre-application) may be utilized. Applications may be faxed, mailed or submitted in person to the CDC office located at 1076 N. State Street; between the hours of 8:00 a.m. to 5:00 p.m. Monday through Thursday, except on holidays.

Pre-applications may also be mailed to the applicant and, if requested, mailed in an accessible format. Persons with disabilities may call the CDC to make special arrangements to complete their pre-application, if needed as a reasonable accommodation.

Pre-applications submitted to CDC that are fully completed and signed by the applicant family's head of household are date and time stamped during normal business hours. The applicant will retain the faxed date and time as the date and time of their status on the Waiting List.

The purpose of the pre-application is to permit the CDC to preliminarily assess family eligibility or ineligibility and to determine placement on the Waiting List. The pre-application may contain questions designed to obtain the following information:

- Date and time of application
- Names of adult members and age of all members;
- Gender and relationship of all members;
- Street Address and phone numbers;
- Mailing Address (if different from street address);
- Amount(s) and source(s) of income received by household members;
- Information related to qualification for preference or special admissions;
- Race/ethnicity;
- Citizenship/eligible immigration status;

Pre-applications may not require an interview. The information on the pre-application may not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants are required to inform the CDC, in writing, of changes in address, income, assets, household composition and any other changes which may impact eligibility. Applicants are also required to respond to requests from the CDC to update information on their application and to determine their continued interest in receiving rental assistance.

The applicant may be removed from all Waiting Lists they are currently on if;

- The applicant fails to provide information or to respond to mailings
- Mail is returned via U.S. Postal Service

Applicants who are removed from the Waiting List may reapply for assistance when the Waiting List is opened.

If the applicant did not respond to the CDC request because of a family member's disability, the CDC may reinstate the applicant in his/her former position on the Waiting List if the person's disability was directly related to the non-compliance, the disability is verified, if need be, and the reason can be identified as pertaining to the person's disability.

#### **Duplicate Applications**

Duplicate applications will not be accepted. Any duplicate pre-applications will be merged with the original pre-application. The family will receive notice of merging of the duplicate status. A pre-application will be considered a duplicate application and be merged with the original application if;

- The family is currently active on the waiting list they applied for, or
- The family has been selected for the waiting list they applied for and the CDC is currently processing the family's eligibility for the program.

### **B. NOTIFICATION OF APPLICANT STATUS**

Based on the information provided by the applicant on the pre-application, if the family is determined to be potentially eligible, the applicant will be notified in writing of their placement on the CDC's Waiting List

If the family is obviously ineligible, the CDC shall notify the family in writing, state the reason(s), and inform the family of its right to an informal review.

### **C. SELECTION CRITERIA AND SPECIAL PURPOSE FUNDING**

#### **Basic Selection Policy**

Except for Special Admissions, applicants will be selected in order of date and time of the initial application with consideration given to the regulations governing income targeting as well as any adopted local preference. CDC uses the aggregate method when determining what local preference holders are contacted first.

Applicants whose income is greater than thirty percent (30%) of the area's median income may be passed on the waiting list pursuant to the income targeting requirements detailed below.

Applicants who applied earlier than applicants who are eligible for local preferences may be passed on the waiting list.

CDC may not select applicants from the waiting list in an order different from the selection procedures for the purpose of selecting higher income families for the program.

Income Targeting Pursuant to the Quality Housing and Work Responsibility Act

Not less than seventy-five percent (75%) of all new admissions shall be families whose income is below thirty percent (30%) of the area median income. A new admission shall be defined as an applicant being offered assistance. (Note: A PHA can reduce its required public housing admission of families with income below 40% of median income in a given fiscal year by admitting more than 75% of extremely low-income.)

The CDC may admit a lower percent of extremely low-income families during a PHA's fiscal year (than otherwise required) if HUD approves the use of such lower percent by the CDC, in accordance with the CDC plan, based on HUD's determination that:

- (1) The CDC has opened its waiting list for a reasonable time for admission of extremely low-income families residing in the same metropolitan statistical area (MSA) or non-metropolitan county, both inside and outside the CDC jurisdiction;
- (2) The CDC as provided full public notice of such opening to such families, and has conducted outreach and marketing to such families, including outreach and marketing to extremely low-income families on the Housing Choice Voucher and public housing waiting lists of other PHAs with jurisdiction in the same MSA or non-metropolitan county;
- (3) There are not enough extremely low-income families on the CDC's waiting list to fill available slots in the program during any fiscal year for which use of a lower percent is approved by HUD; and
- (4) Admission of the additional very low-income families other than extremely low-income families to the CDC's tenant-based Voucher

program will substantially address worst case housing needs as determined by HUD.

- (5) Two (2) or more PHAs in same jurisdiction may elect to be treated as a single PHA for purposes of meeting targeting goals.
- (6) If a family initially leases a unit outside the CDC jurisdiction under portability at admission to the Voucher program, such admission shall be counted against the targeting obligation of the initial PHA (unless the receiving PHA absorbs the portable family into the receiving PHA Voucher program from the point of admission).
- (7) For further Income Targeting clarification refer to 24 CFR Sec. 982.201.

**Special Purpose Funding:**

HUD may provide funding to serve a targeted population. Since HUD specifies the special population, there is no limit to the number of admissions except for the limit as defined by HUD in establishing the special population and funding.

CDC may select applicants out of order if determined necessary to utilize the budget authority for a targeted program. At the time a family Leases a unit under HAP contract CDC may code the family as Mainstream (MS) or FUP/Y on line 2b of the 50058 if;

- The family is has been determined eligible for a special purpose funding voucher, and
- Funding is available

**D. LOCAL PREFERENCES**

CDC will take the preference points and add them (cumulative). The preferences must be supported by documentation. Preferences must be valid at the time the applicant claims the preference and at the time of final determination of eligibility.

The CDC has elected to employ the following as local preferences for the tenant based voucher waiting list. Refer to Chapter XXI. for Project Based Voucher preferences.

- Disabled & Homeless Preference (400 points)

- Natural Disaster Emergency Preference (400 points)
- Lease in Place Preference (50 points)
- Veterans and Veteran families (100 points)
- Residents who live and/or work in Mendocino County (100 points)
- Family Reunification (500 points)
- FUP-Youth Continued Assistance Preference: 800 points and only 5 slots available per fiscal year. Preference may only be applied to FUP-Youth current program participants.

Description of these preferences and their “definitional elements” (or sub-categories) follow.

#### **DISABLED & HOMELESS PREFERENCE:**

CDC has elected to provide a preference for persons with disabilities who are;

- Transitioning out of institutional or other segregated settings, or
- At serious risk of institutionalization, or
- Homeless, or at risk of becoming homeless
- AND live/work in Mendocino County

The preference must be supported by documentation and valid at the time the applicant claims the preference and at the time of final determination of eligibility.

CDC may notify local service providers and current applicants listed on any of CDC’s waiting lists if the waiting list is open for this preference.

CDC will apply 400 preference points for this preference if the family meets the criteria listed above. CDC will take these preference points and add them cumulatively to any other preference points claimed.

#### **Verification of Preference:**

CDC will use the Disabled & Homeless Preference verification form to determine eligibility for this preference and obtain required verifications listed on the form to retain in the applicants file.

### **NATURAL DISASTER EMERGENCY PREFERENCE**

Families who have been affected by a natural disaster such as a fire, flood, earthquake or other natural cause in which the applicant's housing was rendered uninhabitable.

Qualifying families are families in which the natural disaster occurred within 24 Months from the date the family claims the preference and the family is not living in standard, permanent replacement housing at the time of eligibility determination. The definition for standard, permanent replacement housing can be found on the Natural Disaster verification form which is used to verify this preference.

In order for CDC to determine eligibility for this preference verification must be obtained. CDC must verify that the Natural Disaster occurred at the applicant's place of residence, the disaster was a result of natural causes or through no fault of their own, the dwelling unit is inhabitable and proof of residency must be provided. The following are examples of acceptable documentation;

- A Fire Department Report or other acceptable verification which lists the applicants names as residents, confirms the cause of the disaster and verifies the structure inhabitable, and
- Verification from a recognized federal or state disaster relief organization, such as the Red Cross, and
- Proof of residency of the affected property (Rental or Ownership documentation or other acceptable verification).

### **LEASE-IN PLACE PREFERENCE**

The Lease-In place preference is only used in the event that CDC's vouchers under HAP contract fall below maximum leasing potential. This is generally when units under contract fall below 80% of units available for three consecutive months. This preference will apply to families on the wait list who live in Mendocino County and are willing and able to lease in place. CDC will continue to use the Lease-In place preference until the vouchers under HAP contract reach 80% of units available for a period of three months consecutively.

Families who are considered to be living in-place are those who reside in a unit where the landlord will accept the Housing Choice Voucher program.

CDC will require the family to provide a current lease agreement and a written letter of acceptance from the landlord.

Families must remain in the unit for a period of no less than one year after the assistance starts. The unit must meet all other program requirements in order to qualify for the In-Place preference.

Families must lease under HAP contract at the address correlated with the Landlord Acceptance letter in order to maintain this preference.

The Lease-In Place preference is a tool used by CDC only to increase voucher utilization during a limited window of time. The preference does not displace any other applicant families from the wait list nor does it significantly impact the length of time an applicant family remains on the list as the life of the CDC wait list is typically no more than twelve months.

### **VETERAN**

*[California Health and Safety Code § 34322.2. "Priority shall be given within each preference category to families of veterans and servicemen (sic)."]*

Households containing a veteran or the surviving spouse of a veteran of one of the regular armed forces of the United States are eligible for this preference.

To claim a veteran's preference, a copy of the DD214 showing Honorable Discharge or equivalent. If a surviving spouse of a veteran the applicant must submit to CDC a marriage certificate as well as a death certificate.

### **RESIDENCY PREFERENCE**

Families who, at the time of selection from the waiting list, reside within Mendocino County, or include a member who works, or has been hired to work in Mendocino County. Applicants who have been hired to work in Mendocino County must supply CDC with verification of expected employment start date. Employment start date must be within 90 days from the date the applicant claims the preference.

Verification of Residency may include the following, but is not limited to;

- Utility Bills in the name of the family;
- Telephone/cable bills;
- Verification from schools where children are enrolled;
- Landlord statements;
- Public social services verification
- Letter of hire from the employer.
- Current paycheck stubs verifying address of employment



- Photo Identification verifies the same address as the applicants mailing address listed on the application.

### **FAMILY REUNIFICATION (FUP)**

Only families referred to CDC by Family and Children's Services (or affiliated) may qualify for this preference. CDC will apply 500 preference points to families that qualify for this preference.

Applicants are only eligible for the Family Reunification Program (FUP) by referral, therefore CDC will not include this preference as an option on the pre-application.

CDC will apply this preference until the FUP program is fully utilized. At that time CDC may notify Family and Children's Services that referrals are no longer being accepted.

Refer to Chapter XXVIII. in this Administrative Plan for further information on the Family Reunification Program.

### **FUP–YOUTH PREFERENCE: CONTINUED ASSISTANCE**

The FUP Targeted Program refers to special purpose vouchers operated within the Housing Choice Voucher program and is intended to serve specific subpopulations and corresponds with supportive services.

Although the FUP–Family Vouchers provide ongoing housing assistance as long as the household is income eligible, the FUP – Youth Vouchers have an expiration period of 36 months. CDC recognizes that this practice could potentially result in homelessness or other unstable living conditions, therefore, CDC will exercise the option to continue assistance to such populations under the Housing Choice Voucher program. This option will be available to FUP–Youth

To ensure that housing assistance opportunities remain available for all waitlisted applicants CDC will have a preference for “continued assistance of FUP–Youth Vouchers”. This preference will be limited to 5 slots per year and the offer of a Housing Choice Voucher is contingent on funding availability.

The intent of providing the continued assistance option is to provide continuity and housing stability for youth who have an expiring FUP voucher.

CDC may issue a Housing choice Voucher provided there is a slot available, there is funding availability and in order to receive the

preference ALL criteria below is met;

- Participants is in compliance with the rules and regulations of the program for the past 6 consecutive months.
- If the participant owes the CDC for a Repayment Agreement, they must be in compliance with that agreement, or pay the balance in full.
- The FCS must submit a recommendation for a regular Housing Choice Voucher and confirm the participant is in compliance with the FCS.
- If the family is a “remaining family member” and the Youth is no longer part of the household, CDC will grant this preference if all other criteria listed above is met. See “Criteria for Beneficiaries” listed below.

CDC will apply 800 preference points for a family that meets the criteria listed above (800 points maximum for this preference). CDC will take these preference points and add them to any other preference points claimed.

#### **E. COMPLETION OF A FULL APPLICATION**

At the time a family is selected from the waiting list CDC will contact the family by mail with a request to complete a full eligibility application. The notice will include an eligibility application and a list of additional documentation that also must be submitted to CDC no later than the deadline specified.

The family will complete the application on their own whenever possible. The head of household, as well as all members of the household over the age of eighteen (18) years must read and sign all documents including attached HUD forms. Reasonable accommodations shall be made for persons with disabilities, upon request.

The CDC will accept applications from families whose head or spouse is at least 18 years of age, except for emancipated minors under State law. However, the head of household or spouse must be at least 18 years of age at time of the determination of eligibility. Emancipated minors, under State law, may be admitted if the applicant head or spouse can provide documentation that the law considers them of age to enter into a contractual agreement (lease with the landlord, agreement to comply with HUD and CDC requirements.)

All adult members must sign the form HUD-9886, Release of Information, all supplemental forms required by the CDC, the declarations and consents related to citizenship/immigration status, and any other documents required by the CDC. Applicants may be required to sign specific verification forms for information not covered by the form HUD-9886.

Every adult member may be required to sign a consent form to release criminal conviction records and to allow the CDC to review records and use them in accordance with HUD regulations.

If, after receipt of the full application, the CDC determines additional information or document(s) are needed, the CDC will request the document(s) or information in writing. The family will be given ten (10) calendar days to supply the information.

#### **F. PROCESSING THE APPLICATION/ELIGIBILITY CRITERIA**

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the CDC.

The HUD eligibility criteria is:

- An applicant must be a "family";
- An applicant's total family annual income must be within the appropriate HUD established Income Limits;
- An applicant must furnish Social Security Numbers, if issued, for all family members age six and older;
- An applicant must furnish a declaration of Citizenship or Eligible Immigrant Status and verifications are required for Eligible Immigration Status. At least one member of the applicant family must be either a U. S. citizen or have eligible immigration status before the CDC may provide any financial assistance.

#### **Verification of the Eligibility Application**

Information provided by the applicant will be verified including information documenting family composition, income, assets, allowances and deductions, preference status (if needed), full-time student status, and other factors relating to eligibility, to determine applicant eligibility before the applicant is issued a Voucher.

PHAs are required to follow the steps outlined in Notice PIH 2004-18 when verifying SS and SSI. Therefore, the CDC will not contact the local SSA offices by phone, fax, or mail.

If Third party verification of SS/SSI benefits of applicants and household members is not available, the CDC will request a current (dated within the last 30 days) SSA benefit verification letter for each household member that receives social security benefits.

If the applicant and/or household member are unable to provide the requested document, the CDC will request the applicant/household member to call SSA at 1-800-772-1213 to request a benefit verification letter. The CDC will inform the applicant and/or household member that a request for a benefit verification letter can also be made at the SSA Internet Website at [www.ssa.gov](http://www.ssa.gov).

CDC will follow the verification requirements set forth in Chapter V. of this Administrative Plan.

### **Income Eligibility**

The family's annual income must fall within the applicable Very Low-Income limits as published by the Department of Housing and Urban Development. Some families may qualify if they are Low-Income under these circumstances:

- A low-income family that is continuously assisted under the 1937 Housing Act;
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR 511;
- A low-income non-purchasing family residing in a HOPE I (HOPE for Public and Indian Housing Homeownership) or HOPE 2 (HOPE for Multifamily Units) Project;
- A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173; or
- A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.

### **Restrictions On Assistance To Non-Citizens Or Eligible Immigration Status Requirements.**

#### Required Documentation

- Housing Choice Voucher programs are covered under Section 214 of the Housing and Community Development Act of 1980, which makes

financial assistance contingent upon the submission of verifiable evidence of citizen or eligible non-citizen status.

- Families must submit evidence of citizenship or eligible non-citizen status. A family consisting of members with both eligible and ineligible status may be eligible for prorated assistance.
- Verification of evidence of eligible non-citizen status is necessary to determine whether or not the applicant/participating family is eligible for continuing assistance or admittance to the program. Families will be required to submit a declaration for all members who claim eligible status and/or provide a listing of those members who do not claim eligible status.
- Non-citizen students do not have eligible status, nor does their non-citizen spouse and/or minor children accompanying or joining the non-citizen student. A citizen spouse or minor children of a citizen spouse and non-citizen student are eligible for assistance, however;
- Eligible immigration status includes the following categories:  
Citizens or national of the United States;

Non-citizens with status in one of the following categories:

A non-citizen admitted to the U.S. for permanent residence under Section 101(a)(20) of the Immigration and Nationality Act (INA); as an immigrant under Section 101(a)(15) or as a special agricultural worker under Section 120 or 210A of the INA;

A non-citizen who entered the U.S. before January 1, 1972, (or such later date as enacted by law), and who (1) has continuously maintained residence in the U.S. since then, (2) who is not ineligible for citizenship, and (3) who has been deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under Section 249 of the INA;

A non-citizen admitted to the U.S. with refugee status under Section 207 of the INA, or with asylum status under Section 208 of the INA, or admitted before April 1, 1980 under Section 203(a)(7) of the INA;

A non-citizen admitted to the U.S. with parole status under Section 212(d)(5);

A non-citizen lawfully present in the U.S. as a result of the Attorney General's withholding deportation under Section 243(h) of the INA (threat to life or freedom); or

A non-citizen admitted for temporary or permanent residence under Section 245A of the INA.

- Evidence of citizenship or eligible non-citizen status shall consist of the following documents or such other documents as deemed acceptable by HUD or the U.S. Citizenship and Immigration Services (CIS) (formerly INS):

For citizens: a signed Declaration of U.S. citizenship;

For non-citizens:

1. A signed Declaration of eligible immigration status;
2. The CIS documents listed in Guidebook 7465.10G, Chapter 6, Section 6- (or any other documents determined by the CIS to be acceptable evidence and announced by notice in the Federal Register); and
3. A signed Verification Consent Form.
  - Documents submitted by an applicant family to verify eligible immigration status will be first verified using the CIS Systematic Alien Verification for Entitlements (SAVE) system. If the SAVE system does not provide verification, a secondary manual search of CIS records will be instituted by the CDC. If both searches fail to verify eligibility, the family will be notified and will be given the option of requesting an appeal to the CIS and/or a CDC informal hearing.

#### Ineligible Immigration Status

- Families determined to be ineligible when the evidence of citizenship or eligible non-citizen status submitted by a head of household or spouse cannot be verified either by the CDC's preliminary inquiry or by the CIS secondary search will be notified in writing that the individual or family has been determined ineligible.
- Families determined ineligible due to lack of citizenship or non-eligible citizenship status may request an appeal to the CIS according to 24 CFR 5.514(e) and may request an informal hearing with the CDC. Applicant families may request an informal hearing as described in Section 9-2 (c)(2) of Guidebook 7465.10G either upon the completion of the CIS appeal or in place of the CIS appeal.
- Assistance to an applicant may be delayed if the CIS appeal process has been concluded, but may not be denied until after the conclusion of the CDC informal hearing process, if the applicant requests an informal hearing.

**Criminal Activity and Domestic Violence for Applicants**

A household shall be denied admission if:

1. The CDC prohibits admission to the program of an applicant for three (3) years from the date of termination of rental assistance if a household member has been terminated from federally assisted housing for drug-related criminal activity. However, the CDC may admit the household if the CDC determines:

That the household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the CDC and has had no further arrests; or

That the circumstances leading to termination no longer exist. (For example, the criminal household member has died, imprisoned, or no longer residing with the applicant.)

2. Any member of the household is subject to a lifetime registration requirement under a State sex offender registration program; For applicant households containing members subject to a lifetime sex offender registration requirement, the CDC will offer the family the opportunity to remove the member from the household. If the family is unwilling to do so, the CDC must deny admission to the family. The CDC will notify the family of its right to dispute the accuracy and relevance of the criminal background check information.
3. Has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing (including the building or complex in which the unit is located and associated common areas and grounds).
4. Households shall be denied admission for three (3) years after the date of the most recent conviction of the following types of activities;
  - Drug-related criminal activity,
  - Violent criminal activity,
  - Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity;

- Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the CDC (including a CDC employee or a CDC contractor, subcontractor or agent), or
  - Shows a pattern of alcohol and/or drug abuse. A pattern shall be at least three (3) drug or alcohol-related criminal offenses within the five (5) year period prior to application for assistance.
5. Households shall be denied admission for three (3) years after the date of the most recent conviction of domestic violence. If CDC's records indicate the conviction for domestic violence was more than three (3) years ago, CDC will require the applicant to provide verification that the perpetrator of domestic violence has successfully completed a supervised anger management rehabilitation program or similar program, and no further convictions of domestic violence have occurred.

**Drug Related Criminal Activity or Other Criminal Activity**

The following are standards to be applied as appropriate, for drug-related criminal activity and other criminal activity concerning denial of admission:

1. The CDC may determine the use of an illegal drug through a conviction of a drug-related charge.
2. The CDC shall determine involvement in criminal activity through the conviction for a criminal activity.
3. Any household member includes adults and minors who are on the lease or who are living in the household, but not reported to the CDC.
4. Currently engaging in illegal use of a drug or other criminal activity shall be defined as a conviction within one year from the date the CDC discovers the conviction.
5. Reasonable cause shall be determined by a conviction on an illegal use of a drug charge or other criminal activity.
6. There is no time period concerning the conviction of a drug-related charge for manufacturing, production, or distribution of methamphetamine on the premises of federally assisted housing. Such household members being convicted of this offense will be denied admission indefinitely.



7. The time period of ineligibility for admission for other drug-related convictions or other criminal activity convictions shall be three (3) years from the date of the conviction. Refer to Consideration of Circumstances listed below.
8. If the CDC previously denied admissions for criminal activity, the CDC elects not to consider evidence that a household member was not engaged in criminal activity for a period of time. The household shall not be eligible for admission for three (3) years from the date of the conviction.
9. Evidence of criminal activity shall be defined as conviction of criminal activity.

#### **Consideration of Circumstances**

In determining whether to deny admission 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.

**Drug Treatment Facility**

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.

**Criminal History Report**

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.

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

## **G. FINAL DETERMINATION AND NOTIFICATIONS**

After the verification process is completed, a final determination of eligibility will be made before inviting the family to a briefing session.

The Housing Choice Voucher will not be issued before all eligibility criteria have been met.

### **Denial of Admissions**

In addition to Section F of this chapter (Drug Abuse and Criminal Activity), denial of program assistance will be made for an applicant and participant for any of the following grounds:

- a. The family fails to supply any information that is determined necessary by the CDC in the administration of the program;
- b. The applicant and/or participant provides information that is not true or complete;
- c. The applicant or family member(s) has been evicted from federally- assisted housing in the last three (3) years;
- d. If the CDC has terminated assistance under a Voucher program for any member of the family for violation of the Family Obligations within the past three years;
- e. If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federally assisted housing program;
- f. If the family currently owes rent or other amounts to the CDC or another PHA in connection with any rental assistance program.

The CDC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA. The CDC may prescribe the terms of the agreement);

- g. If the family has not reimbursed any PHA for amounts paid to an owner/landlord under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

- h. If the family breaches an agreement to pay amounts owed to a housing authority or amounts paid to an owner/landlord by a housing authority.

The CDC, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA. The CDC may prescribe the terms of the agreement);

- i. If the family has engaged in or threatened abusive or violent behavior toward CDC personnel;
- j. If an applicant is a Sex Offender and/or required to be registered in a "State life-time sexual offender" registry, they will be determined ineligible;
- k. Any family member has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing (including the building or complex in which unit is located and associated common areas and grounds);
- l. The applicant does not meet the eligibility criteria (e.g. the family's annual income exceeds income limits for a family of that size); and
- m. Any adult member refuses to sign or submit required consent forms.

#### **Use of Criminal Record**

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

#### **Removal from the Waiting List and Right to an Informal Review**

A family may be removed from the Waiting List for the following reasons;

- Failure to respond to CDC's written requests;
- Return mail from the USPS;

- Denial of Admission for ineligibility;
- If a family leases under HAP Contract with a tenant based voucher (HCV,MS or FUP) and that family has an active wait list record on the tenant based voucher waitlist (HCV,MS or FUP), that record will be removed from the waitlist;
- An applicant submitted an application when the waiting list was closed or the applicant was not eligible to apply;
- Any other reason CDC determines is necessary in the administration of the program;

Ineligible applicants will promptly be provided with a letter detailing their individual status, stating the reason for ineligibility, and offering them an opportunity for an informal review.

Applicants must submit their request for an informal review in writing to the CDC within ten (10) calendar days from the date of the determination letter.

Persons who claim disabilities and request a reasonable accommodation will have their informal review viewed in accordance with requirements to allow for reasonable accommodation. The 504 Coordinator will review all such reasonable accommodation requests appealing denial of admission or as part of a request for an informal review of the denial of admission.

The Informal Review will be conducted according to regulatory requirements and as outlined further in this Administrative Plan Chapter XXI.

#### **H. UPDATING THE WAITING LIST (PURGE)**

The CDC may periodically update (purge) the waiting list to ensure that it is current and accurate.

The CDC may mail a letter to the applicant's last known address requesting information regarding their continued interest in maintaining a place on the Waiting List.

If the applicant did not notify the CDC of a move as required, the CDC will not be responsible for the applicant's failure to receive the update request.

The request letter will include a deadline date by which the applicant must notify the CDC of their continued interest, by mail or in person.

Notification of a change in address to the U.S. Post Office or sources other than the CDC is not considered compliance with the requirements to notify the CDC.

An applicant's failure to check on their mail at the address given to CDC, whether the address is that of a family member, friend or PO Box, will not alleviate the applicant's responsibility to update their application.

Applicants will be given ten (10) calendar days, from the date of the letter, to return the notice of continued interest. The CDC does not accept responsibility for mail delays.

If the CDC fails to receive the updated applicant information by the deadline date, the applicant's name will be removed from the Waiting List.

#### **I. MONITORING OF SELECTION AND LEASING**

In compliance with SEMAP requirements, a statistical report may be prepared each month to insure that CDC has complied with current regulations affecting the waiting list and selection as it relates to income requirements, single elderly and non-elderly families, and the local preference selection of families.

#### **J. 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.

## K. FAMILY DESIGNATION AND DEFINITIONS

### FAMILY

**[24 CFR 5.403]** *To be eligible for assistance, an applicant must qualify as a family. Family as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such groups includes, but are not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. CDC has the discretion to determine if any other group of persons qualifies as a family.*

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who can demonstrate that they have lived together previously for at least one year. Evidence of a stable family relationship may include any of the following; birth certificates of the children, joint tax returns, prior lease (held jointly), joint bank accounts, insurance policies, affidavit of domestic partnership or equivalent documentation.

Each family must identify the individuals to be included in the family at the time of application, and must notify CDC in writing within ten (10) calendar days if the family's composition changes.

### **HOUSEHOLD**

*Household* is a broader term that includes additional people who, with CDC's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

### **FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Break-up [24 CFR 982.315]**

*Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:*

- *If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the PHA must ensure that the victim retains assistance.*
- *If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, CDC is bound by the court's determination of which family members continue to receive assistance.*

#### **CDC Policy**

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the Waiting List is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, CDC will determine which family retains its placement on the Waiting List, or which family will continue to receive assistance. In making its determination, CDC may take into consideration the following factors:

- Interest of any minor children, including custody arrangements,
- Interest of any ill, elderly, or disabled family members,
- Interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;



- Any possible risks to family members as a result of criminal activity,
- The recommendations of social service professionals, and (6) which family member applied as head of household.

Documentation of these factors is the responsibility of the applicant/assisted families. If either or both of the families do not provide the documentation requested by CDC, both may be denied placement on the waiting list for failure to provide information requested by CDC. Chapter XVIII. of this administrative plan further clarifies Family Break-ups.

### **Remaining Member of a Tenant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family. To be considered the remaining member of the tenant family, the person must have been previously approved by the CDC to be living in the unit, see Chapter XVIII. D. of this plan for further clarification. A reduction in family size may require a reduction in the voucher family unit size; see Chapter VI. Regarding subsidy standards.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household a minor may continue to receive assistance as a remaining family member if; (1) The court has awarded emancipated minor status to the minor, or (2) The CDC has verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. See Chapter XVIII.D. Remaining member of tenant family for the policy on “Caretakers for a Child”.

### **HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

*Head of household (HOH)* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

#### **CDC Policy**

The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

**SPOUSE, COHEAD, AND OTHER ADULT**

A family may have a *spouse* or co-head, but not both [HUD-50058 IB, p. 13].

**CDC Policy**

A minor who is emancipated under state law may be designated as a spouse, if married to the HOH.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

Minors who are emancipated under state law may be designated as a co-head.

*Other adult* means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

**DEPENDENT [24 CFR 5.603]**

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: HOH, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance.

**JOINT CUSTODY OF DEPENDENTS****CDC Policy**

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 186 or more days per year, not necessarily consecutively (51%). The same rule applies if there is no legal document showing shared custody. When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, CDC will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

**FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]**

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution. Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

### **ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]**

#### Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

#### Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

#### Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter IV. G of this plan.

### **PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]**

#### **Persons with a Disability**

Under the HCV program, special rules apply to persons with a disability and to any family whose head, spouse, or co-head is a person with a disability.

CDC must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

#### **DISABLED FAMILY**

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities.

Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter IV. -G of this plan. Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent CDC from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Chapter XIV. Termination of Assistance.

**GUESTS [24 CFR 5.100]**

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

**CDC Policy**

No adult person(s) other than those approved by CDC shall live/stay in the unit other than on a temporary basis which does not exceed fourteen days (14) in a one year period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household 186 or more days per year, not necessarily consecutively, are not subject to the time limitations of guests described above. CDC may require the family to provide documentation of residence and written permission from the owner/landlord.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

**FOSTER CHILDREN AND FOSTER ADULTS**

*Foster adults* are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations. Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults, including California Kinship Guardian Assistant Payments (Kin-GAP)\_per PIH 2008-40, is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

**CDC Policy**

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under a short-term or long-term foster care arrangement with the custodial agency. A foster child or foster adult may be allowed to reside in the unit if they will be in the unit for more than 186 consecutive calendar days. Documentation from the Department of Public Health and Social Services agency responsible for placement must be provided prior to the placement of the child(ren), except in cases of

emergency. See Chapter XX. of this plan for additional clarification regarding foster children and foster adults.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in this Chapter below.

### **ABSENT FAMILY MEMBERS**

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

### **DEFINITIONS OF TEMPORARILY AND PERMANENTLY ABSENT**

#### **CDC Policy**

Generally an individual who is expected to be absent from the assisted unit for 183 consecutive days or less is considered temporarily absent will continue to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 183 consecutive days is considered permanently absent and no longer a family member.

Exceptions to this general policy are discussed below. See Chapter IV. -B for further clarification regarding temporarily and permanently absent household members when determining if income will be included or excluded.

### **ABSENT STUDENTS**

#### **CDC Policy**

Space may be provided for a family member who is away at school but who lives with the family during school recesses, and who has not established permanent housing elsewhere. For example, a college student residing in a dormitory or other campus housing while attending school would be considered temporarily absent. A college student who has signed a lease agreement elsewhere would be considered to have found permanent housing, and therefore removed from the household.

The student will continue to be considered a family member unless information becomes available to CDC that the student has established a separate household or the family declares that the student has established a separate household.

### **ABSENCES DUE TO PLACEMENT IN FOSTER CARE [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

#### CDC Policy

In instances in which the children have been removed from the home by a social service agency, the agency will be contacted to determine the approximate length of time the children are expected to be away from the home.

If the agency indicates that the children are expected to return to the home at some point or a date certain, or that it is unknown whether the children will be returned to the home but there is an expectation rendered by a social service agency that the children will be returned at some point, the children will remain a part of the family composition and will be counted toward the family's subsidy standard, but will not be counted as dependents until they return to the home.

If, in the opinion of a social service agency, the children are not ever expected to be returned to the home, the children will be removed from the family composition and the family's subsidy standard will be reduced accordingly.

CDC will attempt to obtain written verification from the social service agency. Oral conversations with the social service agency will be thoroughly documented in the family file, including the date of contact, name and title of contact person, name of agency, and telephone number and details of the conversation.

If the child is receiving other federal rent subsidy, the child will be removed from the CDC assisted household until s/he is no longer receiving the other federal rent subsidy.

### **ABSENT HEAD, SPOUSE, OR CO-HEAD**

#### CDC Policy

A head, spouse, or co-head absent from the unit more than 183 consecutive days due to employment will continue to be considered a family member unless s/he is receiving other federal rent subsidy.

### **FAMILY MEMBERS PERMANENTLY CONFINED FOR MEDICAL**

#### **REASONS [HCV GB, p. 5-22]**

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 [HCV GB,p. 5-22].

#### CDC Policy

CDC will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, it may present, and CDC will consider, any additional documentation or evidence.

### **ABSENCE DUE TO HOSPITALIZATION OF SOLE FAMILY MEMBER.**

When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than 183 consecutive days, the assistance will be terminated. If a medical provider or other source of similar information documents the person is expected to return to the unit in 183 consecutive days or less, the person shall continue to receive assistance. If the person is not back in the unit within 183 consecutive days, assistance will be terminated.

### **RETURN OF PERMANENTLY ABSENT FAMILY MEMBERS**

#### **CDC Policy**

The family must request in writing CDC's approval for the return to the assisted unit of any adult family member that CDC previously determined to be permanently absent. The family must notify CDC in writing within 10 days of the return of any minor that CDC has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

### **LIVE-IN AIDE**

A *live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403]. This definition applies to a specific person [PIH 2008-20].

The PHA must approve a live-in aide who meets all of the criteria if necessary as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

The PHA may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the PHA's subsidy standards for an unidentified live-in aide.

Occasional, intermittent, multiple or rotating care givers do not meet the definition of a live-in aide since 24 CFR Section 982.402(b)(7) implies live-in

aides must reside with a family permanently for the family unit size to be adjusted in accordance with the subsidy standards established by the PHA. Therefore, an additional bedroom should not be approved.

The PHA must consider requests for an exception to the established subsidy standards on a case by-case basis and provide an exception, where necessary, as a reasonable accommodation. The PHA shall document the justification for all granted exceptions.

The income of a live-in aide is not counted in the calculation of annual income for the family [24CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are usually not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

#### CDC Policy

The live-in aide, and any family members of the live-in aide, must be identified by the family and approved by CDC. The CDC may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under the CDC's subsidy standards for an unidentified live-in aide.

A family's request for a live-in aide must be made in accordance with CDC's Request for Reasonable Accommodation policies.

CDC presumes that a relative is a household member, not a live-in aide. For a relative to qualify as a live-in aide, the tenant must show that the care provided is through an arms-length transaction. The family and the live-in aide will be required to submit a certification and documentation that shows the live-in aide is:

- Capable of providing the required care for the tenant
- Not obligated for the support of the person(s) needing the care
- Has never been a member of the household while the family was receiving housing assistance, nor has the person made regular financial contributions to the household while the family was receiving housing assistance;
- There is no other reason for the person to live in the unit other than to provide care for the elderly, near-elderly, or disabled family member. The live in aide declarant should have to demonstrate they have a previous residence they left in good standing;
- Intends to maintain his or her finances separately and live independently from the disabled tenant's household.
- Approval from the owner/landlord.



Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

For continued approval, the family must submit a new request-subject to CDC's verification every year during the Annual Re-certification.

CDC will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to CDC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.