COVID-19 FAQs for HCV Landlords

Revised June 9, 2020
The COVID-19 pandemic presents significant challenges for HUD and our PHA partners to continue to carry out HUD’s fundamental mission to provide decent, safe, and sanitary affordable housing for low-income families. PHAs, owners, and families face significant difficulties as they comply with critically important advisories and directives from public health professionals, including social distancing and other preventive practices that will slow the spread of COVID-19 and reduce the risk of exposure. In recognition of these difficulties, HUD issued administrative relief through waivers allowing for alternative approaches to various aspects of PHA operations. This document compiles information and answers to commonly asked questions that are relevant to landlord/owners.

**HUD strongly encourages landlords to check with your PHA to see which waivers and alternative requirements your PHA is utilizing to keep families safely in their homes and reduce disruptions to landlords.**

The following are resources used as references for the FAQs below.

**Frequently Asked Questions (3-30-2020)**

**Notice PIH 2020-05 (4-10-2020)**

**Frequently Asked Questions (4-22-2020)**
[Note: The FAQ (4-22-2020) also contains FAQs from the CARES Act Eviction Moratorium Q&A for Public Housing Agency (https://www.hud.gov/sites/dfiles/PIH/documents/PIH-HCV-Mod-Rehab-Eviction-QA.pdf)]

**Frequently Asked Questions for Public Housing Agencies (5-29-2020)**
Q. How should a landlord deal with rent assisted Housing Choice Voucher and Project-Based Voucher (PBV) families that may be asked to stay home if a COVID-19 outbreak occurs and they then cannot meet their rent obligations due to a loss of income? What are eviction prevention measures that can be taken? [FAQ (3-30-2020)]

A. In light of these extraordinary circumstances, HUD encourages PHAs and Owners to prevent the displacement of families through eviction which significantly increases the risk of homelessness and overcrowding. HCV and PBV families are required to pay their portion of the rent. If their income changes, the HCV and PBV families must contact the PHA to set up an interim recertification to adjust their portion of the rent payment.

Q. We have a case where the landlord is telling a tenant they will not renew his/her lease. The landlord is evicting the Section 8 program participant. The tenant is inquiring as to whether this is permissible in light of the coronavirus. [FAQ (3-30-2020)]

A. Under the regular tenant-based voucher program, there is no requirement to renew the lease. Eviction after nonrenewal of a lease is a state and local law matter. The CARES Act includes a temporary moratorium (120 days) only on evictions for nonpayment of rent, as well as fees and penalties related to nonpayment of rent. In addition, some states and localities may provide additional protections to tenants with respect to lease renewals. An owner’s ability to not renew the lease under the tenant-based voucher program does not override additional protections provided to tenants under federal, state and local law.

Q. Can I ban visitors from my senior high-rise? Can I require visitors to wear at least cloth face coverings? [FAQ (5-29-2020)]

A. PHAs have the authority to restrict visitors from public housing properties, and to require that certain persons in common areas or the office wear cloth face coverings or their own masks. If a PHA plans to implement a visitor ban through amended PHA policies, PIH recommends it be done as part of a broader, publicly announced plan to respond to the pandemic national emergency. PHAs should consider that residents will still need to receive essential services, such as food deliveries, medications, and direct service professionals (DSP) [e.g. personal care assistants (PCAs) or home health aides (HHAs)] responsible for caring for older adults and/or persons with disabilities. Restrictions should track with CDC guidance and recommendations from state or local health officials. Regarding cloth face coverings, CDC does not recommend them for persons under 2, or for anyone who has trouble breathing, or anyone who is unconscious, incapacitated, or otherwise unable to remove the cover without assistance. Once those policies are adopted, HUD regulations at 24 CFR 966.4(f)(4) requires tenants to abide by them. Under the HCV program, including PBVs, PHAs and owners should review the lease, state and local laws to determine the permissibility of banning visitors or requiring cloth face coverings in common areas.

Q. What is HUD’s guidance on HQS inspections for PHAs that have halted or are considering halting HQS inspections for health and safety reasons. [FAQ (3-30-2020)]
A. PHAs can accept alternative inspections for periodic inspections (PIH 2016-05) and accepts alternative methods for validating the correction of a deficiency (for example- a photo or owner certification), but the landlord should check with the PHA to see what waivers and/or alternative requirements the PHA has adopted.

Any PHA that applies any of these waivers to its HCV program retains the right to conduct an HQS inspection on any assisted unit at any time. Likewise, the PHA may always choose to conduct an initial inspection on a unit a family wishes to lease if such an inspection is determined to be warranted by the PHA, regardless of whether the PHA chooses to apply the initial HQS inspection waivers to its HCV program. Crucially, use of any of these waivers by the PHA does not relieve owners of their responsibility to maintain the unit in accordance with HQS as required in the HAP contract, nor does it in any way restrict the PHA from taking action to enforce the owner’s obligations. Furthermore, use of any of these waivers by the PHA does not create any right in any third party (such as with the assisted family) to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

Q. With the eviction moratorium, should we still send late notices to residents? Or wait until the 120-day moratorium is over? [FAQ (4-22-2020)]

A. An owner may send a reminder notice of the late rent. However, the reminder notice must not include fees/chargers for the nonpayment of rent, and the reminder notice cannot be a notice to vacate. After the moratorium expires, the PHA can proceed with their standard process. Residents cannot be required to vacate for at least 30 days after the end of the moratorium, and the PHA cannot issue a notice to vacate until July 24, 2020 (expiration of the moratorium).

Q. Can an owner evict for drug abuse and other criminal activity? How about for other lease or program violations, like failure to report income or severe damage to the unit? [FAQ (4-22-2020)]

A. Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies to evictions related to nonpayment of rent or nonpayment of other charges to the tenant related to nonpayment of rent. The moratorium also prohibits the charging of other fees, penalties, or other charges due to the nonpayment of rent. Therefore, the owner can still undertake an eviction/termination of assistance action against a tenant for drug abuse and/or other criminal activity, as those are unrelated to nonpayment of rent. The same is true for other lease violations, although HUD encourages PHAs to consider delaying the initiation or completion of evictions for non-drug or non-crime related reasons until after state or local emergencies are over.

Q. “Abandonment” of a unit is generally distinguished from “absence” from the unit by tenant’s failure to pay rent and failure to acknowledge or respond to notices from the
PHA/owner regarding overdue rent. If the family abandons their unit and does not pay rent, does the PHA/owner have to wait to evict? [FAQ (4-22-2020)]

A. The term “abandonment” requires a fact-specific determination to be made as to the reasons behind the family not being in the unit. A family could have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. The PHA must take additional steps to ensure that the unit is in fact “abandoned” by the family before an eviction/termination of assistance action is taken against the household.

Q. One of my assisted tenants was behind on rent payments prior to the CARES Act. Can I still proceed with termination and eviction? [FAQ (4-22-2020)]

A. If the eviction proceeding was initiated before March 27, 2020, the proceeding would not be covered under the CARES Act and the eviction action can continue. However, HUD encourages PHAs to consider delaying the completion of evictions for non-drug or non-crime related reasons until after state or local emergencies are over. If an eviction proceeding was not initiated before March 27, 2020 for a household who was behind on rent, then the household is covered under the CARES Act and the PHA/owner cannot initiate a new eviction proceeding until after the moratorium. However, PHAs should review their state and local laws, as many are also enacting their own moratorium on evictions.

Q. My tenant was late on rent prior to March 27, 2020, and was charged a late fee in January and February. Can I collect fees for nonpayment of rent that were charged prior to the moratorium? [FAQ (4-22-2020)]

A. Yes, fees that were charged for nonpayment of rent prior to March 27, 2020, may be collected during the moratorium. However, a PHA cannot charge new fees for nonpayment of rent from March 27, 2020 – July 24, 2020; a PHA cannot assess interest on late fees charged in January and February.

Q. During the moratorium, can fees for late payments accumulate and be charged after the moratorium? [FAQ (4-22-2020)]

A. No. Per Section 4024(b)(2) of the CARES Act, fees in relation to nonpayment of rent cannot be charged. Therefore, fees cannot accrue. There should be no charges/fees, or accrual of charges/fees, for rent due the first of the month in April, May, June and July 2020.

Q. I initiated an eviction prior to the moratorium. Can I continue? [FAQ (4-22-2020)]

A. Yes, if you filed with the court of jurisdiction, you can continue the action if the court is operating, subject to any local eviction moratorium requirements.
Q. If a market rate property has an HCV holder in one unit, does Section 4024 of the CARES Act extend to the entire property or only the voucher holder? [FAQ (4-22-2020)]

A. If the market rate property has a federally backed mortgage, then Section 4024 of the CARES Act applies to the entire property. If the market rate property does not have a federally backed mortgage, then Section 4024 of the CARES Act only applies to the voucher holder. HUD does not have the authority to extend jurisdiction over unassisted tenants or the property that does not have a federal backed mortgage. However, owners should review their state and local laws, as many are also enacting their own moratorium on evictions.

Q. How does the ban on evictions apply to mixed-finance public housing properties owned by third parties, which may also include Low Income Housing Tax Credit (LIHTC) units and/or may be covered by Federal Housing Administration (FHA) mortgage insurance? [FAQ (5-29-2020)]

A. All mixed-finance public housing properties owned by third parties are covered under Section 4024 of the CARES Act, as are properties with LIHTC-financed units, and properties with FHA mortgage insurance. Private owners of mixed-finance projects must comply with the CARES Act eviction moratorium provisions, which prohibit evictions, fees, and penalties related to nonpayment of rent during the moratorium period. Please note that pursuant to EM3, tenants may still be evicted for other lease violations/causes unrelated to nonpayment of rent.

Q. Is REAC granting an extension of time for filing appeals due to COVID-19? [FAQ (4-22-2020)]

A. Yes. REAC will extend the deadline for submission of inspection appeals (Technical Reviews and Database Adjustments) and PHAS appeals. REAC will accept appeals within 60 days after resuming normal operations. Appeals received after the 60-day timeframe will be considered late and will not be honored. An example of an inspection appeal is for an inspection that was conducted prior to the outbreak of COVID-19 and the owner needs to appeal ownership of a fence. A PHAS appeal example is a financial submission that was approved prior to the outbreak of COVID-19 and there is a data error that the property owner would like corrected.

Q. What if I am notified of a child with an elevated blood-lead level (EBLL) during a shelter-in-place order? Can someone enter the unit to do an environmental investigation (EI)? [FAQ (4-22-2020)]

A. When responding to a report of a child with an EBLL, the PHA’s first step is to verify the report and to notify the public health department as described in PIH Notice 2017-13. When communicating with the health department, the PHA or owner (as applicable) should request guidance on whether the environmental investigation should proceed during the pandemic. PHAs should follow local health guidance on next steps. If the state

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1 Frequently Asked Questions (April 22, 2020)
Q. Does the ban on evictions apply to all tenants or only those tenants whose employment has been affected by the COVID-19 Virus? We have tenants on a fixed income choosing not to pay rent based on the recent announcement. [FAQ (5-29-2020)]

A. The temporary moratorium on: (1) evictions for nonpayment of rent and (2) fees and penalties related to nonpayment of rent, applies to all tenants, regardless of whether employment was affected by COVID-19. HUD encourages PHAs to alert residents that any rent missed during the moratorium will accumulate and still be due at the end of the 120 days; HUD has provided PHAs with a flyer that can be provided to tenants. For any unpaid rent during the moratorium, the family must repay the PHA or owner the amount of unpaid rent due, or, in the case of public housing, sign a repayment agreement to pay any amount owed after the moratorium has ended. If the amount owed by the public housing resident is not repaid, the PHA is authorized to terminate the family's assistance and proceed with a legal action to evict. See EM16, 24 CFR 966.4(l)(2) and Section 17 of PIH Notice 2017-12. However, PHAs should review their state and local laws, as many state and local jurisdictions are also enacting their own moratorium on evictions that may last longer than the 120-day period of the CARES Act.

Q. Can a PHA or owner charge fees for unpaid utilities during the moratorium? [FAQ (5-29-2020)]

A. Per Section 4024(b)(2) of the CARES Act, fees in relation to nonpayment of rent cannot be charged. Therefore, if utilities are included in the lease agreement as part of rent, then fees for unpaid utilities cannot be charged and cannot accrue during the moratorium. Fees that have no relation to rent may be charged during the moratorium.

Q. Does the eviction moratorium apply to tenants in LIHTC properties? [FAQ (5-29-2020)]

A. Yes, the temporary eviction moratorium applies to tenants in LIHTC properties.

Q. What should a Section 8 Housing Choice Voucher holder do if he/she believes they are being wrongfully evicted by their landlord during the moratorium? [FAQ (5-29-2020)]

A. If a landlord issues a Housing Choice Voucher holder an eviction notice for nonpayment of rent during the moratorium, he or she should reach out to a local legal aid organization and/or the PHA as soon as possible. The tenant or their representative should inform the landlord that the eviction is against the law if it is based on nonpayment of rent between March 27, 2020 to July 24, 2020 and that no fees and penalties related to nonpayment of rent for that period can be charged. Payment of rent after the eviction moratorium ends is addressed in EM1. PHAs should remind participating HCV landlords of the legal restrictions on evictions for nonpayment of rent.
Q. After the moratorium expires, when can a notice to vacate be issued for nonpayment of rent and what would be the earliest vacate date in the notice? [FAQ (5-29-2020)]

A. Section 4024(c) of the CARES Act indicates that PHAs/owners cannot require a tenant to vacate until 30 days after the expiration of the eviction moratorium. Therefore, the earliest date that a notice to vacate could be provided is July 25, 2020 with a vacate date of August 24, 2020. However, July 25, 2020 is a Saturday, so the PHA/owner should follow their state and local laws, as some state or local jurisdictions may prohibit a notice to vacate from being served on a weekend.

Q. Can a remote video inspection (RVI) meet the current regulatory requirements for HQS inspections as well as the requirement for PHAs to inspect their public housing units? Do you envision that this will be a tool that can be used into the future (not just through the COVID-19 period)? [FAQ (5-29-2020)]

A. Yes, a Remote Video Inspection (RVI) can be utilized to meet regulatory inspection requirements for both the Housing Choice Voucher and Public Housing programs. RVI is a regular HQS/public housing inspection performed remotely with a “proxy” inspector with the PHA HQS/PH inspector remotely directing the inspection. The Department will issue additional guidance for best practices that PHAs can follow. HUD envisions that, once the process is mature, this method can be used by PHAs into the future (not just through the COVID-19 response period).

Q. If tenants request temporary relocation during the quarantine, what are a PHA’s options for addressing the request? [FAQ (5-29-2020)]

A. Residents may experience significant stress about their safety related to COVID-19 transmission and may ask for temporary relocation out of multi-unit properties. PHAs can request additional information from the resident to verify the need for relocation. PHAs are not required to grant these requests in advance of a specific health department directive. Health departments often recommend that residents self-isolate within their current home. PHAs can request verification from a medical health professional or the state or local health department as part of reviewing special requests related to COVID-19. PHAs can allow current resident families to use vacant units for temporary relocation if separation is recommended by the health department or a medical health professional. PHAs can also purchase a unit for quarantine.

Q. Where can I refer residents that have health issues or symptoms, but no primary care provider? [FAQ (5-29-2020)]

A. Residents can find a Health Center through the U.S. Department of Health and Human Services’ Health Resources and Services Administration via findahealthcenter.hrsa.gov. Additionally, the non-profit National Center for Health in Public Housing provides an interactive map at nchph.org/training-and-technical-assistance/maps/. This map shows health care facilities within a five-mile radius of public housing buildings and Public Housing Authorities. To find Health Centers near public housing in a specific state, click
on the filter icon (funnel) in the upper left and enter the state abbreviation. You can also get a list of the Health Centers by pulling up the attribute table at the bottom of the screen. For more guidance, please visit NCPH’s COVID-19 resources.

COVID-19 Waivers Available to PHAs

Through PIH Notice 2020-05, HUD is allowing PHAs to waive certain requirements. Adopting and implementing waivers is a PHA-level decision. HUD strongly encourages landlords to check with your PHA(s) to see which (if any) waivers your PHA(s) are adopting and implementing.

Q. What is the first step in determining which waivers apply to my situation? [PIH Notice 2020-05 (4-10-2020)]

A. PHAs are in the best position to determine which (if any) of these waivers should be applied to their HCV programs based on the needs and current conditions in their local communities. PHAs are required to keep written documentation that record which waivers the PHA applied to their program(s) and the effective dates. If a PHA chooses to apply any of the waivers provided for in this notice, the PHA is required to notify residents and owners of any impact that the waiver and alternative requirement (where applicable) may have on them by whatever means it considers most effective as soon as practicable.

Q. What if I need an Initial Inspection? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is waiving these requirements and providing an alternative requirement. In order to place the unit under HAP contract and commence making payments, the PHA may rely on the owner’s certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question instead of conducting an initial inspection. At minimum the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner’s certification but is not required to do so. The period of availability for PHAs to accept owner’s self-certification for an initial inspection ends on July 31, 2020. The period of availability for the PHA to inspect a unit that was placed under HAP contract based on the owner’s self-certification ends on October 31, 2020.

Q. Must a landlord or owner with newly rehabilitated or constructed units, which fall under an Agreement to Enter into the HAP Contract (AHAP) receive an inspection to certify that work has been completed? [PIH Notice 2020-05 (4-10-2020)]

A. If the PHA has imposed an additional requirement under the AHAP for newly constructed or rehabilitated projects, the PHA may choose to allow the owner to certify that the PHA requirement has been met instead of inspecting the housing to make that determination. The period of availability for PHAs to accept owner’s self-certification for the pre-HAP inspection/completion of work requirement ends on July 31, 2020. The
period of availability for the PHA to complete all delayed inspections on units placed under a HAP contract based on the owner’s self-certification ends on October 31, 2020.

Q. What happens if the initial inspection fails with Non-Life-Threatening Deficiencies (NLT)? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is waiving the requirement that the PHA must withhold the payment if the NLT repairs are not made in 30 days. Instead, the PHA may provide an extension of up to an additional 30 days to the owner to make the NLT repairs and continue to make payments to the owner during the period of that maximum 30-day extension. If the owner has not made the NLT repairs by the end of the PHA extension period, the PHA must withhold payments. The period of availability for the PHA to approve an extension of up to an additional 30 days ends on July 31, 2020. The extension to make the NLT repairs may extend beyond July 31, 2020, depending on the date the PHA approved the extension.

Q. What happens if the initial inspection fails with Life-Threatening Deficiencies? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that the owner must either correct the life-threatening deficiency within 24 hours of the PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist.

Q. What if my unit is due for a biennial inspection? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is waiving this requirement and is allowing PHAs to delay biennial inspections for both tenant-based and PBV units. All delayed biennial inspections must be completed as soon as reasonably possible but no later than October 31, 2020.

Q. What does a landlord need to do if notified by a PHA that a unit requires an interim inspection because the unit does not comply with HQS standards (as reported by a family member or a government official)? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is waiving these requirements and establishing an alternative requirement for both tenant-based and PBV units. If the reported deficiency is life-threatening, the PHA must notify the owner of the reported life-threatening deficiency and that the owner must either correct the life-threatening deficiency within 24 hours of the PHA notification or provide documentation (e.g., text or email a photo to the PHA) that the reported deficiency does not exist. In the case of a reported non-life-threatening deficiency, the PHA must notify the owner of the reported deficiency within 30 days and the owner must either make the repair or document that the deficiency does not exist within 30 days of the PHA notification or any approved PHA extension. The PHA may add other requirements or conditions in addition to the owner’s documentation but is not required to do so. As is the case under the current HCV program requirements, the PHA is not
required to conduct an on-site inspection to verify the repairs have been made but may rely on alternative verification methods (e.g., photos submitted by the owner, tenant certification, etc.). The period of availability ends on July 31, 2020. After July 31, 2020, the PHA must conduct the HQS inspection in accordance with the applicable time periods upon notification by a family or government official that the assisted unit does not comply with the HQS.

Q. What happens if I need an HQS inspection to turn my PBV unit to over to a new family or to add units? [PIH Notice 2020-05 (4-10-2020)]

A. The regulation requires that before providing assistance to a new family in a PBV contract unit, the PHA must inspect the unit. HUD is waiving this regulatory requirement and providing as an alternative requirement the PHA may rely on the owner’s certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question to allow a new family to occupy the vacated PBV unit. At minimum the PHA must require this owner certification. However, the PHA may add other requirements or conditions in addition to the owner’s certification but is not required to do so. The PHA is required to conduct the HQS inspection on the unit as soon as reasonably possible, but no later than October 31, 2020. The period of availability to fill a turnover PBV unit without conducting an HQS inspection ends on July 31, 2020. The period of availability for completing inspections for turnover PBV units that were reoccupied without an HQS inspection under this waiver authority ends on October 31, 2020.

Q. What if I haven’t been able to execute my HAP contract and the deadline has passed? Can I still execute the contract and get paid? [PIH Notice 2020-05 (4-10-2020)]

A. HUD is allowing PHAs to execute the HAP contract after the 60-day deadline has passed and make housing assistance payments back to the beginning of the lease term. However, the PHA and owner must execute the HAP contract no later than 120 days from the beginning of the lease term. The period of availability to execute the HAP contract after the normally 60-day period from the beginning of the lease term ends on July 31, 2020.

Q. What happens if the family’s income increases to the extent that the housing assistance payments would typically be reduced to $0? [PIH Notice 2020-05 (4-10-2020)]

A. As an alternative requirement, the PHA, upon written notice to the owner and family, may extend the period of time following the last payment to the owner that triggers the automatic termination of the HAP contract. The extension beyond the normally applicable 180 days is determined by the PHA but may not extend beyond December 31, 2020. The period of availability for the extension ends December 31, 2020. The PHA may not extend the HAP contract beyond December 31, 2020.