

# Eligibility Determination and Denial of Assistance

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## 1. Chapter Overview

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This chapter outlines the U.S. Department of Housing and Urban Development's (HUD) eligibility requirements for participation in the Housing Choice Voucher (HCV) program and provides guidance to Public Housing Authorities (PHAs) in establishing additional criteria for admission. PHAs should strive for objectivity and consistency when applying these criteria to evaluate the eligibility of families who apply for assistance. PHAs must<sup>1</sup> provide families applying for assistance the opportunity to explain their circumstances, furnish additional information if required, and receive an explanation of the basis for any decision regarding their eligibility.

As with all areas of program administration, when determining family eligibility PHAs must<sup>2</sup> comply with all Federal, State, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment. See the Fair Housing Requirements chapter for more information.

## 2. Overview of Eligibility Factors and Requirements at Admission

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There are four factors that PHAs must<sup>3</sup> consider when determining eligibility for the HCV program. In addition to the eligibility factors, there are screenings that the PHA must<sup>4</sup> conduct that may result in denial of assistance. Each factor is summarized below and then discussed further in a corresponding subsection. Before denying assistance for any criteria, the PHA should review [Section 12. Denial of Assistance](#), to ensure compliance with the Violence Against Women Act (VAWA) and other nondiscrimination requirements.

### 2.1 Eligibility Factors for Admission

**Family eligibility requirements:** The household must<sup>5</sup> meet HUD's definition of a "family". HUD's definition of "family" is provided in [Section 3, Family Eligibility Requirements](#).

**Income limits:** The household's annual income must<sup>6</sup> not exceed the applicable income limit as established by HUD in the jurisdiction where the family leases a unit. This requirement only applies at the time of admission and is further described in [Section 4, Income Limits](#).

**Student status:** The household must<sup>7</sup> meet additional eligibility criteria if the head, co-head, or spouse is a full-time student or a noncitizen student. Detailed requirements are explained in [Section 5, Restrictions on Student Eligibility](#).

**Citizenship status:** The applicant family must<sup>8</sup> have eligible immigration status with supporting documentation. Citizenship status only needs to be verified once at the time of admission for each household member.

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<sup>1</sup> 24 CFR § 982.554

<sup>2</sup> 24 CFR § 1.4; 982.552(c)(2); 982.202(b)(3); 5.105(a)

<sup>3</sup> 24 CFR § 982.201

<sup>4</sup> 24 CFR § 5.216; § 5.905; § 5.903

<sup>5</sup> 24 CFR § 982.201(a)

<sup>6</sup> 24 CFR § 982.201(b)

<sup>7</sup> 24 CFR § 5.612; 5.522

<sup>8</sup> 24 CFR § 982.201(a)

Information on how to verify citizenship and immigration status and calculate assistance for families that include ineligible noncitizens is provided in [Section 7, Citizenship Status](#).

## 2.2 Screening and Other Requirements at Admission

**Disclosure of Social Security Numbers and compliance with verification requirements.** The household must<sup>9</sup> sign consent forms and provide requested verification materials to allow the PHA to verify the household's information. The applicant must<sup>10</sup> also disclose and document the SSNs of all family members (with a few exceptions described in [Section 8, Disclosure of Social Security Numbers](#)). SSNs only need to be verified once per household member.

**Background screening.** The PHA must<sup>11</sup> conduct background screenings to ensure no member of the household is subject to a lifetime sex offender registration requirement. All adult household members must<sup>12</sup> sign a criminal background consent form to authorize the PHA to conduct background screenings. PHAs may establish additional nondiscriminatory criteria for admission. If the PHA chooses to establish additional criteria, the standards must<sup>13</sup> be applied consistently and be listed in the PHAs' administrative plan. Details on which other types of activity may result in denial of assistance and the PHAs options for setting additional criteria are discussed in [Section 9, Background Screening](#).

**Enterprise Income Verification (EIV) system searches.** PHA's must<sup>11</sup> use HUD's EIV system to search for all household members using the Existing Tenant Search and all adult household members in the Search for Former Tenant. All adult household members must also sign the HUD-52665. The PHA may be required to deny assistance to household members who are already receiving assistance from another program or who owe an outstanding debt to another PHA. More information on the required searches and interpreting the results is provided in [Section 10, EIV Searches at Admission](#).

## 3. Family Eligibility Requirements

Each applicant for assistance under the HCV program must<sup>14</sup> meet HUD's definition of family. A family includes<sup>15</sup>, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person;
2. A group of persons residing together, and such group includes, but is not limited to:
  - a. A family with or without children. A child temporarily absent from the home due to placement in foster care must<sup>16</sup> be considered in determining family composition and size. A family that consists of a pregnant woman only, and no other persons, must<sup>17</sup> be treated as a two-person family.

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<sup>9</sup> 24 CFR § 5.230; § 982.551(b); § 5.233

<sup>10</sup> 24 CFR § 5.216(h)(1); 24 CFR § 982.551(b)(3)

<sup>11</sup> 24 CFR § 5.905(a)(1)

<sup>12</sup> 24 CFR § 5.903(b)(1)

<sup>13</sup> 24 CFR § 982.54(d)(4)(i)

<sup>14</sup> 24 CFR § 5.233; PIH Notice 2018-18 Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System, pg. 3

<sup>15</sup> 24 CFR § 5.403; 42 USC 1437a(b)(3)

<sup>16</sup> 24 CFR § 5.403 *Family*(2)(i)

<sup>17</sup> 24 CFR § 982.402(b)(5)

- b. An elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age. It may include two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
- c. A near-elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 50 years of age but below the age of 62; or two or more persons, each of whom are between the ages of 50 and 62, living together; or one or more persons who are between the ages of 50 and 62 living with one or more live-in aides.
- d. A disabled family, which means a family whose head, co-head, spouse, or sole member, is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.
  - i. A person with disabilities means a person who:
    - 1) Has a disability as defined in 42 U.S.C. § 423(d)(1);
    - 2) Has a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently, and is of such a nature that ability to live independently could be improved by more suitable housing conditions; or
    - 3) Has a developmental disability as defined in 42 U.S.C. § 15002(8) (formerly codified in 42 U.S.C. § 6001).
  - ii. Important considerations:
    - 1) The meaning of a person with disabilities does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS.
    - 2) The meaning of a person with disabilities does not include a person whose disability is based solely on any drug or alcohol dependence (for eligibility purposes).
    - 3) A person who qualifies as a person with disabilities also qualifies as an individual with handicaps, as defined in 24 C.F.R. § 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.
    - 4) The terms disability and a person with disabilities are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
      - a. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply (see 24 CFR § 8.3; 24 CFR § 100.201; 28 CFR §§ 35.104,108).
      - b. When used in the context of eligibility under the HCV program, the program eligibility definitions apply
- e. A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.
- f. A remaining member of a tenant family, which is a family member of an assisted tenant family who remains in the unit when other members of the family have left the unit.

## 4. Income Limits

HUD establishes income limits by family size for the area in which each PHA is located. These income limits are used to determine the family's eligibility for the program and are published annually in a HUD Notice and are generally effective on the date of publication. The income limits are available on [HUD USER](#) website.

To be eligible for the program, a family must<sup>18</sup> be either very low income (generally 50% of area median income), or low-income (generally 80% of area median income) and meet one of the following additional criteria:

- Continuously assisted under the public housing, housing choice voucher, project-based rental assistance, or other housing program under the Housing Act of 1937. Non-purchasing households in the following homeownership programs: HOPE 1, HOPE 2, or other HUD-assisted multifamily home ownership programs covered under 24 CFR § 284.173;
- Displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on “eligible low-income housing,” as defined in 24 CFR § 248.101. Note that these displaced families are also eligible if they have moderate income (between 80 and 95 percent of median area income).
- A criterion set by the PHA to address essential local housing needs. For example, a PHA may administer its HCV program in a jurisdiction that offers locally-funded assisted housing to low-income families. The PHA may include a policy in its administrative plan stating the low-income limit will be applied when determining income eligibility for families transitioning from locally-funded assisted housing.

## 4.1 Income Targeting

Each PHA must<sup>19</sup> ensure that 75 percent of its admissions in each PHA fiscal year are families whose incomes are at or below the extremely low-income (ELI) limit (see definition below).<sup>20</sup> Less than 75 percent of ELI permitted with HUD approval, in accordance with PHA Plan and additional circumstances described in 982.201(b)(2)(ii)(A)-(D). The [Waiting List and Tenant Selection](#) chapter contains rules pertaining to “targeting” of assistance to extremely low-income families.

### Definition of Extremely Low Income

Extremely low-income refers to families whose incomes meet the very low-income threshold (50% of area median income) and do not exceed the higher of the federal poverty line or 30% of area median income. This definition became effective on July 1, 2014, ensuring working families living in areas where the federal poverty line exceeds 30% of area median income will meet the ELI income targeting requirements.

PHAs do not need to determine the ELI limit for their local area. HUD publishes the ELI limits annually on [HUD USER](#).

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<sup>18</sup> 24 CFR § 982.201(b)(1)

<sup>19</sup> 24 CFR § 982.201(b)(2)

<sup>20</sup> 24 CFR § 5.603; *Federal Register* Notice 79 FR 35940, HUD Implementation of Fiscal Year 2014 Appropriations Provisions on Public Housing Agency Consortia, Biennial Inspections, Extremely Low-Income Definition and Utility Allowances, July 1, 2014.

## 4.2 Applying Income Limits

Annual Income is compared to the applicable income limit to determine eligibility.

A family's income must<sup>21</sup> be within the income limits for the PHA's jurisdiction at the time the family receives a voucher to search for housing. In addition, the family, when it is first admitted, must select a unit in an area in which the family meets the income limit for the housing choice voucher program. Income limits apply only at the time as admission and are not a factor in on-going program eligibility.

A PHA with more than one set of income limits within its jurisdiction must<sup>22</sup> use the highest income limit within its jurisdiction when determining initial household eligibility. However, a family whose income is above the limits in one or more areas of that PHA's jurisdiction may lease only in an area where the family is income eligible when it executes its first lease assisted under the voucher program. Similarly, a family exercising portability when first admitted to the program must lease in an area where it is within the eligibility income limit.

To determine which applicants qualify as continuously assisted, the PHA must<sup>23</sup> establish policies concerning whether and to what extent a brief interruption between assistance under one of these programs and admission to the voucher program will be considered to break continuity of assistance under the 1937 Housing Act.

## 5. Restrictions on Student Eligibility

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Students at institutions of higher education who will not reside with their parents must<sup>24</sup> meet additional eligibility criteria. These rules apply regardless of whether the student is considered a full-time or a part-time student.

Assistance shall only be provided to students who are otherwise eligible for the program and meet at least one of the following criteria. The student:

- Is 24 years of age or older;
- Is a veteran;
- Is married;
- Has a dependent child;
- Is a person with disabilities (as defined in [Section 3](#) of this Chapter) who was receiving HCV assistance as of November 30, 2005; or
- Is a graduate or professional student; or
- Is individually income eligible and the student's parents are individually or jointly income eligible; or
- Is an independent student, defined as:
  - a) The individual is 24 years of age or older by December 31 of the award year;
  - b) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older;
  - c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.

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<sup>21</sup> 24 CFR § 982.201(d)

<sup>22</sup> 24 CFR § 982.201(b)(4)

<sup>23</sup> 24 CFR § 982.201(d)(2)

<sup>24</sup> 24 CFR § 5.612; Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance (71 FR 18145, April 10, 2006); Eligibility of Independent Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Additional Supplementary Guidance (FR 5969-N-01, September 21, 2016)

- Or, is classified as a Vulnerable Youth. A student meets HUD's definition of Vulnerable Youth when the individual has been verified during the school year in which the application is submitted as either an "unaccompanied youth" who also falls within the definition of "homeless children and youths" (as such terms are defined in Section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act), who are at risk of homelessness and self-supporting, by:
  - a) A local educational agency homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act;
  - b) The director of a program funded under the Runaway and Homeless Youth Act or designee of the director;
  - c) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director or
  - d) A financial aid administrator.
- Or, the individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

For purposes of the student eligibility restrictions, the term "parents" means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.), or such other definition as may be adopted in the PHA's administrative plan.

## 5.1 Prohibition on Assistance to Noncitizen Students

Noncitizen students, even those with eligible immigration status for purposes of HUD's financial assistance, are not eligible to receive housing assistance.<sup>25</sup>

A noncitizen student is a bona fide student who:

- Is pursuing a course of study in this country;
- Has a residence in another country outside of the United States that the person has no intention of abandoning; and
- Is admitted to this country temporarily, solely for the purpose of studying.

When a noncitizen student is accompanied by a noncitizen spouse and/or noncitizen minor children, those family members are also ineligible for assistance. If the noncitizen student and noncitizen spouse have citizen children, the whole family is still ineligible for assistance. However, if a non-citizen student has a citizen spouse, the citizen spouse and children if any, would be eligible for assistance. In that case, assistance would be prorated to ensure that assistance goes only to those family members with eligible immigration status.

## 6. Student Income Eligibility

If an individual is enrolled as a student at an institution of higher education, is under the age of 24, not a veteran, not married, is not a person with disabilities who was receiving assistance on November 30, 2005, and does not have a dependent child, in order to be eligible for assistance, the student must be individually eligible to receive assistance and the student's parents (the parents individually or jointly) must be income eligible to receive assistance unless the student can demonstrate his or her independence from parents with the guidance in the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146).

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<sup>25</sup> 24 CFR 5.522; 42 USC 1436a(c)(2)(A)



## PHA Options: Verification of Parent Income Eligibility

The PHA may establish its own procedure for verifying parental income eligibility. For example, PHAs could require a signed income certification from the parents with a penalty of perjury statement, or the PHA may also choose to request supporting documentation of parental income such as tax returns, award letters, or paystubs.

PHAs may adopt and implement the following criteria for determining whether to obtain the declaration and certification of income from parents, individually or jointly.

- If the student's parents are married and living with each other, obtain the declaration and certification of income from each parent.
- If the student's parent is widowed or single, obtain the declaration and certification of income from that parent.
- If the student's parents are divorced or separated, obtain the declaration and certification of income from each parent.

If the student has been living with one of his or her parents and has not had contact with or does not know where to contact his or her other parent, obtain from the student a certification under penalty of perjury, addressing the circumstances (including a statement that the student has not received financial assistance from the parent) and obtain from the parent whom the student has been living or has contact with the declaration and certification of income.

## 7. Citizenship Status

Eligibility for Federal housing assistance is limited<sup>26</sup> to U.S. citizens and noncitizens who have eligible immigration status. Families in which all members are U.S. citizens or have eligible immigration status are eligible for housing assistance.<sup>27</sup> Families in which at least one member is a U.S. citizen or has eligible immigration status may also be eligible for pro-rated assistance. A family in which some family members have eligible immigration status, and some do not contend eligible immigration status, is called a mixed family. Mixed families receive prorated assistance based on the percentage of family members who qualify for assistance.<sup>28</sup>

An individual who is not a U.S. citizen or national who is a resident of the U.S. and has any of the following immigration statuses is eligible for assistance:<sup>29</sup>

- A non-citizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).
- A non-citizen who entered the United States before 1/1/72 (or such later date as enacted by law) and:
  - Has continuously maintained residence in the U.S. since then; and
  - Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.

<sup>26</sup> 24 CFR § 5.506(a)

<sup>27</sup> 24 CFR § 5.506(b)

<sup>28</sup> 24 CFR § 5.516(b)

<sup>29</sup> Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a(a))

- A non-citizen who is lawfully present in the United States as a result of:
  - Refugee status, including:
    - 1) Those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207 of the Immigration and Nationality Act (INA)) – these families have a “T” visa; or
    - 2) The granting of asylum (which has not been terminated (section 208); or
    - 3) The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution of fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.
  - A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).
  - A non-citizen who is lawfully present in the United States as a result of the Attorney General's' withholding deportation (section 243(h)) (threat to life or freedom).
  - A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).
  - An alien who is lawfully residing in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

## 7.1 Documentation of Citizenship or Immigration Status

Each eligible household member (or the parent/guardian for household members under age 18) must<sup>30</sup> sign a declaration of their status. Eligible noncitizens must also provide supporting documentation as shown on Exhibit 1 Non-Citizen Rule Summary of Documentation Requirements. Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible noncitizens.

Documentation must<sup>31</sup> be submitted by the time of the eligibility determination. Once documents have been submitted and verified for an individual, citizenship documentation for that individual will not need to be collected again. Household members who do not provide the required proof of citizenship or eligible immigration status will be considered ineligible noncitizens.

### 7.1.1 Extensions

The PHA must<sup>32</sup> provide an extension of up to 30 days to submit evidence of eligible status if the family submits the declaration of eligible immigration status and certifies that the family needs more time because the required evidence is temporarily unavailable. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

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<sup>30</sup> 24 CFR § 5.508(c)

<sup>31</sup> 24 CFR § 5.508(g)(1)

<sup>32</sup> 24 CFR § 5.508(h)(1) and (2)

Upon determining if the extension request meets the requirements, the PHA must<sup>33</sup> inform the family, in writing, whether its request for a time extension has been granted or denied. If granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.

### Additional Documentation of Citizenship

PHAs are permitted but not required to adopt policies requiring additional documentation to verify U.S. citizenship. If it is the PHA's policy to require verification of citizenship, the PHA administrative plan must clearly state this policy. The policy must be applied consistently to all applicants and in a nondiscriminatory manner.

## 7.2 Verification of Eligible Immigration Status

The PHA is required to verify eligible immigration status through the U.S. Citizenship and Immigration Service (CIS). While the PHA may not admit any individual prior to receiving the required documentation described in on Exhibit 1 Non-Citizen Rule Summary of Documentation Requirements, the PHA may elect to provide assistance prior to completing the verification process.<sup>34</sup>

### 7.2.1 Primary Verification Method

The PHA must<sup>35</sup> conduct primary verification of eligible immigration status through the CIS automated system, [Systematic Alien Verification for Entitlements \(SAVE\)](#).

### 7.2.2 Secondary verification method

If the primary verification system does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under a Section 214 covered program, the PHA must<sup>36</sup> attempt secondary verification, a manual records check by CIS. The PHA must<sup>37</sup> submit a request for secondary verification to CIS within 10 days of receiving results of the primary verification. To request secondary verification, the PHA will forward photocopies of the original required documents with the form G-845S Document Verification Request. or such other form specified by the.

If secondary verification fails, the PHA must<sup>38</sup> notify the family in accordance with the notification requirements described in [Sections 7.4.1](#) and [11.2](#) of this chapter.

### 7.2.3 CIS Appeals Process

The PHA must<sup>39</sup> notify the family in writing if the secondary verification process does not confirm eligible immigration status. The notice must indicate whether assistance will be delayed, denied, or terminated and inform the family of the right to file an appeal with the CIS.

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<sup>33</sup> 24 CFR § 5.508(h)(3)

<sup>34</sup> 24 CFR § 5.512(b)

<sup>35</sup> 24 CFR § 5.512(c)

<sup>36</sup> 24 CFR § 5.512(c)(2) and (d)(1)

<sup>37</sup> 24 CFR § 5.512(d)(1)

<sup>38</sup> 24 CFR § 5.512(d)(3)

<sup>39</sup> 24 CFR § 5.512(d)(3); 24 CFR § 5.514(d)

If the family wants to exercise its right of appeal with the CIS, the family must<sup>40</sup> submit a written request for an appeal to the CIS within 30 days of the date of the PHA notification. The family must also take the following steps:

- Include with the appeal request a cover letter and any support documentation as well as a copy of the verification request form (CIS Form G-845S) which was submitted by the PHA for the secondary verification request;
- Provide the PHA with a copy of the request for appeal with the CIS and proof of mailing (e.g., USPS Certified Mail ®, a service that provides the sender with a mailing receipt); and
- Provide any additional documentation that the CIS may request.

Within 30 days the CIS must render its decision to the family and forward a copy to the PHA (or provide notice of the reasons for any delay).

### 7.3 Prorating Assistance for Mixed Families

A mixed family is eligible for prorated assistance. “Prorated assistance” means the family will receive only a portion of the subsidy for which a fully eligible family would qualify. The proration is calculated<sup>35</sup> based on the number of members who are citizens or have eligible immigration status and the total number of family members.

This calculation is shown below.

STEPS	EXAMPLE
Determine the Housing Assistance Payment (HAP), taking into consideration the income of all family members, for which the family would qualify regardless of the members’ eligibility status.	HAP = \$300
Divide the number of eligible family members (citizens and those with eligible immigration status) by the total number of family members	3 eligible family members ÷ 4 total family members .75 proration percentage
Multiply the HAP calculated in Step 1 by the proration percentage calculated in Step 2 to determine the prorated total HAP for the family.	\$300 x .75 Prorated Total HAP = \$225

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<sup>40</sup> 24 CFR § 5.514(e)

## 7.4 Delay, Denial, or Termination of Assistance

The PHA must<sup>41</sup> not delay, deny, or terminate assistance to an applicant or participant on the basis of ineligible immigration status of a family member if any of the following circumstances apply:

- At least one person in the household is a U.S. citizen or an eligible noncitizen who has been verified by CIS;
- The family has submitted the required documents to the PHA timely, but the primary and secondary verification processes has not been completed;<sup>42</sup>
- The family member whom the PHA has not determined eligible moves out of the household;<sup>43</sup>
- The CIS appeals process has not been completed;<sup>44</sup>
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified; or
- For a program participant, the informal hearing process is not complete.

Assistance must<sup>45</sup> be denied or terminated when:

- The family has not submitted the declaration of citizenship or eligible immigration status and appropriate documentation by the specified deadline or any extension;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status and the family does not pursue CIS or PHA appeal;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status, and CIS or PHA appeal is pursued but decision(s) are rendered against the family; or
- The PHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit. In this case, the PHA must terminate assistance for at least 24 months. This does not apply if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

### 7.4.1 Notification of Denial Due to Citizenship Status

When the PHA decides to deny or terminate assistance, the PHA must<sup>46</sup> send a written notice to the household which includes the following:

- A statement that financial assistance will be denied or terminated and the justification;
- Notification that the family may be eligible for prorated assistance if it is a mixed family;
- In the case of a currently assisted household, the procedures for requesting proration of assistance;
- The right to appeal the results of the secondary verification to the CIS and how to appeal; and
- The right to request an informal hearing from the PHA in lieu of or after a CIS appeal.

In the case of applicants, the notice may advise that assistance may not be delayed until the conclusion of the CIS appeal process but may be delayed during the informal hearing process.

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<sup>41</sup> 24 CFR § 5.514(a)

<sup>42</sup> 24 CFR § 5.514(b)(1)(i)

<sup>43</sup> 24 CFR § 5.514(b)(1)(ii) & (iii)

<sup>44</sup> 24 CFR § 5.514(b)(1)(iv)

<sup>45</sup> 24 CFR § 5.508(h)(3)(i); § 5.514(b)(1)

<sup>46</sup> 24 CFR § 5.512(d)(3); § 5.514(d)

## 7.5 Compliance with Verification Requirements

Participant families are required<sup>47</sup> to provide information required by HUD and the PHA when requested, and to cooperate in efforts to verify the information provided. For applicant families, documents establishing eligibility must<sup>48</sup> be no more than 60 days old on the date of initial voucher issuance. Verification time limits do not apply to permanent documents such as birth certificates and citizenship declaration forms. For more information on the verification process, see the [Verifications and Income Determination](#) chapter.

The PHA must<sup>49</sup> require all adult applicants and participants (age 18 and over, as well as heads, co-heads, and spouses, regardless of age), to sign the HUD-9886 Authorization for the Release of Information/Privacy Act Notice (form HUD-9886) as a condition for admission and continued assistance. The form is valid for 15 months from the date of signature and must<sup>50</sup> be signed at each regularly scheduled reexamination.

Once signed, the form provides authorization for the following:

- HUD and the PHA to obtain any information necessary from State Wage Information and Collection Agencies (SWICAs) to verify information provided at the time of application or recertification, this authorization includes accessing HUD's Enterprise Income Verification System (EIV).
- HUD and the PHA to verify income information with previous and current employers that is pertinent to eligibility or level of assistance.
- HUD and the PHA to obtain information from financial institutions concerning unearned income.
- HUD to request income tax return information from the IRS and Social Security Administration (SSA) to verify income related to eligibility or level of assistance.

## 8. Disclosure of Social Security Numbers

The PHA must<sup>46</sup> require applicants and program participants to disclose and document the Social Security Numbers (SSNs) of all family members as a condition of admission and continued assistance, except ineligible noncitizens and as provided below. This process occurs only one time for each family member, unless a family member has been issued a new SSN or the Social Security Administration has determined that a previously disclosed SSN was invalid.

### 8.1 SSN Disclosure Requirements for Applicant Families

Since disclosure and documentation of SSNs is a condition of eligibility for the voucher program, an applicant family cannot be admitted to the program until the requirement is met. While the PHA can extend time allowed to meet this obligation at the intake stage, failure to disclose and document SSNs as required ultimately results in denial of the family's application. Applicant families that are otherwise eligible for the program but are awaiting SSN documentation may retain their place on the waiting list but may not be admitted until documentation of a valid SSN is submitted to the PHA. For participant families, a PHA may provide the family an additional 90 days to disclose a SSN, consistent with 24 CFR 5.218(c)(2).

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<sup>47</sup> 24 CFR § 982.551(b)

<sup>48</sup> 24 CFR § 982.201(e)

<sup>49</sup> 24 CFR § 5.230

<sup>50</sup> 24 CFR § 5.230; Form HUD-9886

### **8.1.1 Children Under Age 6 Added to Applicant Families**

If the applicant family adds a child under age 6 to their household within six months of voucher issuance, the family may be admitted to the program before the SSN documentation is submitted. The family has 90 days from the date of admission, which is the HAP contract effective date, to provide the required documentation to the PHA. The PHA must allow one additional 90-day period if the applicant family experienced delays that were out of its control.<sup>51</sup>

### **8.1.2 Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals**

PHAs may admit Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals to the program prior to receiving their SSN documentation. The applicants must provide documentation of their SSN within 90 calendar days. PHAs may grant an additional 90-day extension. PHAs must terminate SRO participants' assistance if documentation is not provided within these time limits.

## **8.2 SSN Disclosure Requirements for New Household Members Added to a Participant Household**

### **8.2.1 New Household Members Age 6 and Over or Under Age 6 Who Have an SSN**

In order to add new household members over age 6 or new household members 6 and under who already have an SSN to a participant household, the family must<sup>52</sup> disclose and document the new member's SSN before adding the new member to the assisted household. If a member, six years of age or older, does not have an SSN, the member must<sup>53</sup> obtain one (unless he or she is a non-contending family member). The family must disclose and document the new member's SSN prior to adding the new member to the assisted household.

### **8.2.2 New Household Members Under Age 6 Who Do Not Have an SSN**

When adding a new household member who is under six years of age and does not have a SSN (for example, when adding a newborn child to the assisted household), the participant must<sup>54</sup> disclose and document the SSN for the new member within 90 days of the child's addition to the household. PHAs may grant a 90-day extension if the failure to provide the information was beyond the family's control (for example, if the delay was due to delayed processing by the Social Security Administration (SSA), a natural disaster, or a death in the family). A PHA must add the child to the assisted household pending submission of the SSN and the family must receive all associated benefits and deductions. For submissions to the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system, PHAs must assign an "alternate ID" to the child. PHAs must later replace the alternate ID with the child's assigned SSN.

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<sup>51</sup> 24 CFR § 5.216(h)(3); PIH Notice 2016-05 Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies, pg. 4

<sup>52</sup> 24 CFR § 5.216(e)(2)(i)

<sup>53</sup> 24 CFR § 5.216(a) and (b)

<sup>54</sup> 24 CFR § 5.216(e)(2)(ii)

## 8.3 Acceptable Documentation

PHAs must<sup>55</sup> accept any of the following as acceptable evidence of a family member's or household member's SSN:

- An original SSN card;
- An original document issued by the SSA that shows the person's name and SSN (SSA award letter, Medicare card, etc.); or
- An original document issued by a federal, state, or local government agency that contains the name and SSN of the individual (unemployment insurance printout, welfare or Medicaid documents, etc.).

A PHA must<sup>56</sup> only reject these documents if they are not original, they appear to be forged, or if the original document is altered, mutilated or not legible. In this case, the PHA must explain to the family why the document is not acceptable and must request that the family provide alternative documentation. A PHA must not require only an original SSN card as acceptable documentation.

PHAs submit the SSN for each household member to HUD through the IMS/PIC system. PHAs must validate the SSNs through EIV, which will generate an error message when any SSN does not match the SSA's database.

Once the individual's identity verification status is classified as Verified, the PHA may, at its discretion, remove and destroy the copy of the documentation of SSN. Paper documentation must be destroyed by either shredding or burning. Electronic documentation must be destroyed by erasing or permanently deleting the file. Additional guidance related to destruction of records is available in [HUD Handbook 2400.25, Rev. 4: HUD Information Technology Security Policy](#), dated August 2014.

For a participant family, the penalty for failure to disclose and document SSNs as required is termination of assistance. See the [Terminations](#) chapter for information on terminations.

## 9. Background Screening

PHAs are required<sup>57</sup> to conduct criminal background screenings to determine if any household member is subject to a lifetime sex offender registration requirement for all states in which the household members are known to have lived. PHAs are also required<sup>58</sup> to obtain a criminal background check at the request of the owner. PHAs are also required to utilize the Debts Owed to PHAs & Terminations Report to identify any previous evictions that are listed on HUD or the PHA's required reasons for denial of admission.

### 9.1 Criminal Background Screening

PHAs must<sup>59</sup> ask all household members to provide a list of the states in which they have lived and whether their name appears on any lifetime sex offender registry. PHAs must conduct criminal background screenings necessary to determine if each household member is subject to a lifetime sex offender registration. Law

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<sup>55</sup> 24 CFR § 5.216(g)(1)

<sup>56</sup> 24 CFR § 5.216(h)(2)(i)

<sup>57</sup> 24 CFR § 5.856; § 5.905; PIH Notice 2012-28 State Registered Lifetime Sex Offenders in Federally Assisted Housing

<sup>58</sup> 24 CFR § 5.903(d)(1)

<sup>59</sup> PIH Notice 2012-28



enforcement agencies may charge a reasonable fee for providing the records to the PHA. Such charges must<sup>60</sup> not be passed along to the applicant family.

### Procedures for Maintaining Confidentiality

Because there are strict penalties for improper disclosure of criminal conviction records, the PHA must establish procedures aimed at maintaining confidentiality. For example, the PHA could designate one staff member to review all criminal records. This staff member would then provide documentation for the family file, stating that the household had passed or failed criminal background screening, without revealing any details from the record. Another approach would be to keep all criminal records separate from family files, preferably in a locked office or locked filing cabinet. The records would then be destroyed once their purpose has been served.

#### 9.1.1 Consent for Background Screening

PHAs must<sup>61</sup> require that each adult member of the household provide a signed, written authorization for the PHA to obtain criminal conviction records from the National Crime Information Center, police departments, and other law enforcement agencies.

#### 9.1.2 Information from Drug Abuse Treatment Facilities

PHAs may only deny admission to household members that are currently engaging in the use of illegal use of a controlled substance. PHAs may require each person who applies for admission to sign one or more forms of written consent authorizing the agency to receive information from a drug treatment facility to ascertain whether the applicant is currently engaging in the use of illegal use of a controlled substance.

#### 9.1.3 Records Retention and Confidentiality

Criminal records must<sup>62</sup> be maintained confidentially and may only be disclosed to persons with a job-related need to know the contents. Criminal background results, including sex offender results must<sup>63</sup> not be shared directly with the owner, and they must<sup>64</sup> be destroyed promptly once their purpose has been served. For example, if the PHA decides to admit the family to the program, the records must be destroyed immediately. If the PHA decides to deny admission based on the criminal conviction record, the record may be retained during the period allowed for requesting an informal review, and until the review, if requested, has been completed. The record must then be destroyed promptly. The PHA must not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file. Criminal background records of sex offenders are

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<sup>60</sup> PIH Notice 2009-39 Prohibition on Public Housing Agencies

<sup>61</sup> 24 CFR § 5.903(b)(1)

<sup>62</sup> 24 CFR § 5.905(c)(1)(i) and (ii); § 5.903(g)(1) and (2)

<sup>63</sup> 24 CFR § 5.905(b)(4)

<sup>64</sup> 24 CFR § 5.905(c)(1)(iii); § 5.903(g)(3)

subject to the rules governing other criminal conviction records. However, the PHA must<sup>65</sup> retain a record of the type of screening and the date screening was performed.

#### 9.1.4 Denial of Assistance for Criminal Activity

PHAs may deny admission based on criminal convictions or if the preponderance of evidence indicates that a family member has engaged in such activity. PHAs are prohibited<sup>66</sup> from denying admission solely based on arrest records. If the PHA decides to deny admission based on a criminal conviction record, the PHA must<sup>67</sup> notify the family of the pending denial action and must give the family an opportunity to dispute the accuracy and/or relevance of the record. A copy of the criminal conviction record must<sup>68</sup> be provided to the head of household and to the subject of the record (if different) at this time. If the family does not dispute the record, or if the family disputes the record and the PHA does not agree, the regular denial notice is sent.

PHAs must<sup>69</sup> deny admission for the following specific types of criminal activity or alcohol abuse. Denial is required when:

1. A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.
  - The PHA may admit the family if it determines that the household member who engaged in the activity has been successfully rehabilitated, or the circumstances no longer exist (because, for example, the household member is dead or in prison)
2. The PHA determines that a household member is currently illegally using a controlled substance or such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, is determined by the PHA to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The PHA may consider whether such household member has taken steps to rehabilitate or has been rehabilitated and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.
  - Note: An individual may also qualify as an individual with disabilities under Federal civil rights statutes, which prohibit discrimination against individuals with disabilities and include reasonable accommodation obligations.
3. Any household member has been convicted of the manufacture of methamphetamine on the premises of federally assisted housing.
4. Any household member is subject to a lifetime sex offender registration requirement.
  - The PHA must check for sex offender registration in its own state and in any other state where the family has resided. Use of a nationwide database such as [www.nsopw.org](http://www.nsopw.org) is recommended.

PHAs may establish policies that are stricter than the regulatory requirements listed above, so long as those policies do not discriminate in violation of civil rights laws. For example, PHA policies may call for denial of admission if any household member has been convicted of methamphetamine production, regardless of whether the activity took place in federally assisted housing. PHA policies may not be more lenient than those specified above.

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<sup>65</sup> 24 CFR § 982.158(f)

<sup>66</sup> PIH Notice 2015-19

<sup>67</sup> 24 CFR § 5.903(f); § 5.905(d); § 982.553(d)(1)

<sup>68</sup> 24 CFR § 5.903(f)

<sup>69</sup> 24 CFR §982.553(a); § 982.552(b)

## 9.2 Additional PHA Discretionary Admission Criteria

PHAs must<sup>70</sup> establish local policies concerning denial of assistance to applicants for the following reasons:

- The family has violated program obligations.
- Any family member evicted from federally assisted housing within the past 5 years.
- Any PHA has ever terminated assistance for any family member under the certificate or voucher program.
- Any member of the family has committed fraud, bribery, or any other corrupt or criminal act related to any federal housing program.
- The family currently owes rent or other amounts to the PHA or another PHA for amounts in connection with the HCV, certificate, moderate rehabilitation, or public housing programs.
- The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached an agreement with the PHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA.
- The family has engaged in or threatened abusive or violent behavior toward PHA personnel.
- If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.

### PHA Options: Considerations for Screening Policies

The minimum requirements for criminal background screenings and denial of assistance are outlined in this chapter. HUD has issued guidance encouraging PHAs to strike a balance between resident safety and the reentry needs of formerly incarcerated individuals and others with criminal history records. PHAs have broad discretion in setting their admission policies. HUD encourages PHAs to allow ex-offenders to rejoin their families when appropriate, and to consider other factors in their decisions such as rehabilitation and participation in social service programs.

Related Resources:

[\*It Starts with Housing: Public Housing Agencies are Making Second Chances Real\*](#)

[\*PIH Notice 2015-19: Guidance for Public Housing Agencies \(PHAs\) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions\*](#)

[\*FAQs: Excluding the Use of Arrest Records in Housing Decisions\*](#)

[\*Letter from Shaun Donovan, Secretary, United States Department of Housing and Urban Development, to Public Housing Agency Directors, June 17, 2011\*](#)

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<sup>70</sup> 24 CFR §982.552(c)(1)

## 10. EIV System Searches at Admission

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### 10.1 Existing Tenant Search and Avoiding Duplicate Subsidy

Prior to admission into the program, the PHA must<sup>71</sup> search for each family member in the EIV Existing Tenant Search. The search will show if any family member is currently assisted by another public housing agency.

### 10.2 HUD-52675 Debts Owed to PHAs and Terminations

All adult household members must<sup>72</sup> sign the HUD-52675. The form is only required to be signed by each adult one time. The form notifies the adults that their debt and terminations information will be shared with other PHAs and will be accessible by HUD staff, PHA staff, and contractors.

Prior to admission to the program, the PHA must search for each adult family member in the EIV Debts Owed to PHAs and Terminations database. If any information on debts or terminations is returned by the search, the PHA will determine if the offenses violate their admissions policies.

### 10.3 120-day review of Income Report

EIV information is typically not available in EIV for applicant families. If information is not available at the time of income determination, the PHA must review the family's EIV Income Report 120 days after the New Admission (action code 1) is processed to identify any unreported or underreported income sources. See and Income Determination chapter for more information on how to identify these discrepancies.

## 11. Notifications to Family

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### 11.1 Emergency Contact

PHA must<sup>73</sup> notify the family of their right to provide an emergency contact and give the family an opportunity to provide the emergency contact. PHAs may use HUD-92006, Supplement to Application for Federally Assisted Housing, to meet this requirement. The family is not required to provide an emergency contact and may choose to check the box at the bottom of the form "Check this box if you choose not to provide the contact information."

### 11.2 Notification Requirements

At the time an application is filed, the PHA must<sup>74</sup> notify all applicants for assistance about the rule restricting assistance based on citizenship and immigration status and of the requirement to submit documentation of eligible status or to elect not to claim eligible status. The PHA's notice must include the following:

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<sup>71</sup> PIH Notice 2018-18

<sup>72</sup> 24 CFR § 5.233; HUD-52675 Debts Owed to Public Housing Agencies and Terminations

<sup>73</sup> Section 644 of the Housing and Community Development Act of 1992 (Section 644)

<sup>74</sup> 24 CFR § 5.508(f)(1)

- A statement that financial assistance is contingent upon the appropriate submission and verification of documentation of citizenship or eligible immigration status.
- A description of the types of documentation required and time period for submission. (See Exhibit 1: Non-Citizen Rule – Summary of Documentation Requirements).
- A statement that, as appropriate, assistance will be prorated, denied, or terminated, based on a final determination of ineligibility after all CIS appeals and, if requested, an informal hearing<sup>75</sup> for participants or an informal review<sup>76</sup> for applicants.

### 11.3 Effective Communication and Limited English Proficiency Requirements

All notifications and communications must ensure effective communication for persons with disabilities. PHAs must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. PHAs must also take reasonable steps to ensure meaningful access to their programs and activities to individuals with limited English proficiency. See HUD’s Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) (72 FR 2732). LEP guidance and LEP information is available on HUD’s website.

## 12. Denial of Assistance

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The information in this section applies generally to all denials of assistance. Specific requirements related to denying assistance based on each of the factors discussed in the chapter are covered in the subsection for each factor.

### 12.1 Timing of Denial

An applicant may be denied assistance under the HCV program only for violations of the program requirements that are identified as grounds for denial of assistance.<sup>77</sup> Denial of assistance may include any or all of the following:

- Denial of listing on the PHA waiting list;
- Denial or withdrawal of a voucher;
- Refusal to enter into a HAP contract or approve a lease, and
- Refusal to process or provide assistance through portability.

### 12.2 Non-discrimination

All decisions to deny assistance are subject to civil rights and antidiscrimination laws such as the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, Titles II or III of the Americans with Disabilities Act, and the Violence Against Women Act (VAWA).<sup>78</sup> Violence Against Women Act (VAWA) means the Violence Against Women and Department of Justice Reauthorization Act of 2005 and the Violence Against

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<sup>75</sup> 24 CFR § 5.508(f)(2)(ii)

<sup>76</sup> 24 CFR § 5.508(f)(2)(iii)

<sup>77</sup> 24 CFR § 982.552(a)(2)

<sup>78</sup> 24 CFR § 982.552(c)(2)(v)

Women Reauthorization Act of 2013. The PHA must<sup>79</sup> not deny admission solely based on certain family characteristics, including families with children, families with unwed parents or children born out of wedlock, families that receive public assistance, or whether the family decides to participate in the family self-sufficiency program (FSS). The PHA is also prohibited<sup>80</sup> from denying admission on the basis of any protected class, including age, race, color, religion, sex, national origin, familial status, and disability. Consistent with HUD's Equal Access Rule, HUD-assisted and HUD-insured housing must be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.<sup>81</sup>

For applicants with a disability, a PHA must grant a reasonable accommodation request made by an applicant unless it constitutes an undue financial and administrative burden, a fundamental alteration to the program, or results in a direct threat that cannot be reduced or eliminated by another reasonable accommodation. This includes, for example, a reasonable accommodation request made by an applicant who was denied admission due to a previous eviction from housing assisted under the program for serious violation of the lease where the tenant claims that the eviction or lease violation was related to that tenant's disability. More information on reasonable accommodations and fair housing requirements can be found in the [Fair Housing Requirements](#) chapter.

If an applicant is otherwise eligible, admission to the program may not<sup>82</sup> be denied to the program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. PHAs must<sup>83</sup> notify applicants that protections are available to victims under the Violence Against Women and Department of Justice Reauthorization Act of 2005 and the Violence Against Women Reauthorization Act 2013, P. L. 113-4. See the [Violence Against Women Act \(VAWA\)](#) chapter for information on VAWA requirements.

### 12.3 Consideration of Circumstances

In deciding whether to deny assistance because of action or failure to act by members of the family, PHAs have discretion to consider any of the circumstances in each particular case. Circumstances could include, for example, the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances 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 to act.<sup>84</sup>

However, PHAs must<sup>85</sup> deny admission to lifetime registered sex offenders and persons convicted of methamphetamine production in assisted housing, without consideration of the circumstances.

The PHA's admission and termination actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with the requirements of 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).<sup>86</sup> If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with part 8 of this title.<sup>87</sup>

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<sup>79</sup> 24 CFR § 982.202(b)(3)(i), (ii), (v)

<sup>80</sup> 24 CFR § 982.202(b)(3)(iii) and (iv)

<sup>81</sup> 24 CFR § 5.105(a); PIH Notice 2014-20 (HA): Program Eligibility Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule

<sup>82</sup> 24 CFR § 5.2005(b)

<sup>83</sup> 24 CFR § 5.2005(a); The Violence Against Women Reauthorization Act of 2013

<sup>84</sup> 24 CFR § 982.552(c)(2)

<sup>85</sup> 24 CFR § 5.856; § 982.553(a)(2); PIH Notice 2012-28

<sup>86</sup> 24 CFR § 982.552(c)(2)(v)

<sup>87</sup> 24 CFR § 982.552(c)(2)(iv)

When one household member causes the family to be ineligible, the PHA may choose to admit the family on the condition that the household member does not reside with the family.

### PHA Options: Making a Decision to Deny Assistance

In each instance before making a decision to deny HCV program assistance, PHA staff should consider the specific circumstances of the family under review and determine if denial is the best response.

In some instances, the PHA may determine that the seriousness of the situation does not warrant denial. For example, a family whose previous assistance was terminated for failure to recertify may be evaluated differently than an applicant family who was terminated from public housing for wanton destruction of public housing property.

Timing may also influence the judgment of PHA staff. A family that was terminated very recently for failure to recertify might be denied, while staff might determine that a family evicted from public housing 10 or 12 years ago for property destruction might be given more consideration, particularly if more recent evidence suggests a change in family behavior.

Similarly, if damage caused by a family evicted 10 years ago was attributed to a teenager no longer living with the family, admission to the program might seem a reasonable decision.

## 13. Chapter Glossary

The following terms are used in this Chapter:

**Admission** is the point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in the tenant-based program.

**Adult** is a person who is 18 years of age or older or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

**Applicant** means a person or a family that has applied for housing assistance.

**Child** means a member of the family other than the family head or spouse who is under 18 years of age.

**Citizen** means a citizen or national of the United States.

**Disabled family** means a family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities; or one or more persons with disabilities living with one or more live-in aides.

**Displaced family** is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under federal disaster relief laws.

**Elderly family** is a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.

**Enterprise Income Verification (EIV) system** is a web-based computer system that contains employment and income information of individuals who participate in HUD rental assistance programs.

**Extremely low-income family** refers to a very low income family whose income does not exceed the higher of 30 percent of the area median income or the federal poverty level.

**Family** is either a single person or a group of persons as defined in 24 C.F.R. § 5.403.

**Gender identity** means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

**Household** means the family and the PHA approved live-in aide.

**Housing quality standards (HQS)** are the HUD minimum quality standards for housing assisted under the HCV program.

**Law enforcement agency** means the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. (Note that the NCIC is a division of the Federal Bureau of Investigation (FBI)).

**Low income-limit** is an income limit that HUD generally sets at 80 percent of the area median income.

**Mixed family** is a family that includes members who are citizens or have eligible immigration status and members who do not contend to have eligible immigration status.

**National** means a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Noncitizen** means a person who is neither a citizen nor national of the United States.

**Temporary Protective Status (TPS)** provides families with temporary immigration status to the United States. Families that are granted TPS under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) are provided with a "T" visa and are considered to have eligible immigration status under Section 207 of the Immigration and Nationality Act (INA). Families with a "T" visa are eligible for full housing assistance

**Upfront Income Verification** is the verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.

**Verification Hierarchy** is the order of preference for methods of verifying information supplied by an applicant or tenant family.

**Very low-income limit** is an income limit that HUD generally sets at 50 percent of the area median income.



## Exhibit 1: Non-citizen Rule - Summary of Documentation Requirements

STATUS	DOCUMENTATION Note: All documentation provided must be UNEXPIRED
1) A citizen or national of the United States	DECLARATION: For each family member with this status, a declaration of citizenship signed under penalty of perjury. For each adult, the declaration must be signed by the adult. For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.
2) A non-citizen claiming eligible immigration status who is 62 years of age.	AND: Proof of age
<p>3) All other non-citizens claiming eligible immigration status.</p> <p>Categories of eligible immigration status:</p> <p>a) A non-citizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).<sup>83</sup></p> <p>b) A non-citizen who entered the United States before 1/1/72 (or such later date as enacted by law) and:</p> <p>i) Has continuously maintained residence in the U.S. since then; and</p> <p>ii) Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.</p>	<p>DECLARATION: For each family member with this status, a declaration of eligible immigration status signed under penalty of perjury. Adults must sign their own declarations. AND:</p> <p><u>A verification form</u>: For each adult, the adult must sign the form. For each child, an adult member of the family residing in the unit who is responsible for the child must sign the form.</p> <p>The verification form must state that evidence of eligible immigration status may be released by the PHA to HUD and the CIS without responsibility for the future use or transmission of the evidence by the recipient. The form must also notify the signer of the possible release of evidence of eligible immigration status by HUD. Such evidence shall only be released by HUD to the CIS for the purpose of establishing eligibility for financial assistance.</p> <p>AND:</p> <p><u>CIS Primary Verification</u> of eligible immigration status must be conducted by the PHA through the CIS automated SAVE system. If this method fails to verify status, or, if the verification received indicates ineligible immigration status, the PHA must request <u>Secondary CIS Verification</u> within 10 days by sending to the local CIS Office photocopies of CIS documents receiving (front and back) attached to Form G-845S – Document Verification Request.</p> <p>AND:</p> <p>The PHA must request and review an original CIS document of eligible immigration status and must retain photocopies and return the original to the individual.</p>

STATUS	DOCUMENTATION Note: All documents provided must be UNEXPIRED
<p>4) All other Non-citizens with eligible immigration status (continued)</p> <p>a) A non-citizen who is lawfully present in the United States as a result of:</p> <ul style="list-style-type: none"> <li>• Refugee status, including those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207); or</li> <li>• The granting of asylum (which has not been terminated (section 208); or</li> <li>• The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution of fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.</li> </ul> <p>b) A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).</p> <p>c) A non-citizen who is lawfully present in the United States as a result of the Attorney General's' withholding deportation (section 243(h)) (threat to life or freedom).</p> <p>d) A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).</p> <p>e) An alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (<a href="#">48 U.S.C. 1901 note</a>) and Palau (<a href="#">48 U.S.C. 1931 note</a>) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.</p>	<p>Acceptable Original CIS Document:</p> <ul style="list-style-type: none"> <li>• Form I-551 "Permanent Resident Card"</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>⇒ "Admitted as a Refugee Pursuant to Section 207"</li> <li>⇒ "Section 208" or "Asylum"</li> <li>⇒ "Section 243(h)" or "Deportation stayed by Attorney General"</li> <li>⇒ "Paroled Pursuant to 9 CFR Section 221 (d)(5) of the INS"</li> </ul> </li> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>⇒ A final court decision granting asylum (but only if no appeal is taken);</li> <li>⇒ A letter from a DHS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a DHS district director granting asylum (application filed before 10/1/90);</li> <li>⇒ A court decision granting withholding of deportation; or</li> <li>⇒ A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> <li>• Form I-9 Employment Eligibility Verification annotated with: <ul style="list-style-type: none"> <li>⇒ Acceptable document from List A or,</li> <li>⇒ Combination of one selection from List B and one selection from List C</li> </ul> </li> <li>• Form I-360 VAWA Self-Petition</li> <li>• Form I-130 Family-Based Visa Petition</li> <li>• Form I-797 Notice of Action</li> <li>• A receipt issued by the DHS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i>.</li> </ul>