



U.S. Department of Housing and Urban Development Public and Indian Housing

Special Attention of:
Directors of HUD Regional and Field
Offices of Public Housing;
Agencies that Administer the
Housing Choice Voucher Program

Notice PIH 2013-19

Issued: August 1, 2013

Expires: Effective until amended,
superseded, or rescinded

Cross References: PIH Notice 2011-32,
PIH Letter 2007-1, PIH Notice 2006-21,
PIH Notice 2005-5

Subject: Revised Policies and Procedures for Special Purpose Housing Choice Vouchers for Non-Elderly Disabled Families and Other Special Populations

1. Purpose. The purpose of Notice PIH 2011-32 (which is superseded by this notice) was to establish policies and procedures for issuing, tracking and monitoring Housing Choice Vouchers (HCV) that were awarded under a Notice of Funding Availability (NOFA) to provide rental assistance specifically for non-elderly disabled (NED) families. These policies and procedures addressed initial issuance, re-issuance and maintenance of these NED HCVs, tracking them in the Public and Indian Housing Information Center (PIC) and Voucher Management System (VMS) and issues related to reasonable accommodation. The Family Unification Program (FUP) and HUD-Veterans Affairs Supportive Housing (VASH) programs were addressed in section 5.f. only as they relate to shortfalls in HCV funding.

This notice updates Section 5.b. of the original notice to: (1) remove the deadline for coding NED families; and (2) provide that sanctions may be applied if a PHA does not achieve the required leasing rate. Section 5.h. has been amended to clarify VMS reporting requirements for Moving to Work (MTW) agencies. A new section 5.j. has been added to address the issue of “aging out” of NED eligibility. A new section 6 has been added to address Five-Year Mainstream vouchers (MS5).

2. Background. Since 1997, HCVs for NED families have been awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing); Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments); One-Year Mainstream Housing Opportunities for Persons with Disabilities and the Project Access Pilot Program (formerly Access Housing 2000). However, prior to the publication of Notice PIH 2011-32, issues regarding the issuance and tracking of these special purpose vouchers had not been clearly addressed in one notice.

The Consolidated Appropriations Act, 2004 provided that incremental vouchers previously made available under this heading (Housing Certificate Fund) for NED families shall, to the extent practicable, continue to be provided to NED families upon turnover. This requirement applies to all NED special purpose vouchers awarded since 1997. In addition, the 2008 Appropriations Act stated that amounts available under this Act or previous appropriations acts for tenant-based rental assistance and used for NED families shall, to the extent practicable, remain available for its purpose upon turnover. The 2009 Appropriations Act removed the words, “to the extent practicable” and stated that assistance made available under the Act shall continue to remain available for NED families upon turnover. In accordance with section 6 of PIH Notice, 2005-5 (further extended by PIH Letter 2007-1), to the “extent practicable,” meant that PHAs were required to issue turnover vouchers to NED families on their waiting lists, and conduct outreach efforts specifically to NED families to obtain eligible applicants if there were none on the waiting list.

In addition, Section 2(a)(4)(C) of the *Frank Melville Supportive Housing Investment Act of 2010*, states that all MS5, as well as HCVs for NED families received pursuant to appropriation Acts for fiscal years 1997 through 2002, or any other subsequent appropriations, to the maximum extent possible, continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.

3. Applicability. The policies and procedures listed below are applicable to all public housing agencies (PHA) that were awarded or administer through portability any type of NED HCV as described in paragraph 2 of this notice.

4. Effective Date. This notice is effective upon publication.

5. Policies and Procedures.

a. Maintenance of Baseline Number of NED HCVs. Based on the number of NED families throughout the country, the ability of any PHA to open its waiting list to NED families without any other limitations, and the variety of outreach media, it is extremely unlikely a PHA could legitimately claim that it is not “practicable” to reach eligible NED families to apply to its waiting list. Therefore, for the purpose of determining the baseline number of NED HCVs, HUD determined that PHAs would be responsible for assisting the number of NED HCVs awarded since 1997. PHAs were notified of the number of NED vouchers they were awarded between 1997-present and were given an opportunity to dispute the number. Final NED baselines have been established for all PHAs with NED vouchers and the number of NED vouchers that each PHA is responsible for leasing to non-elderly disabled family may be accessed at the following website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/ned under “*Reestablishing NED Vouchers.*” Please note that all NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the

turnover of a NED HCV, a PHA believes it is not practicable to assist NED families, the PHA must contact Phyllis Smelkinson at Phyllis.Smelkinson@hud.gov or Chris Bailey at Christopher.R.Bailey@hud.gov.

b. Reestablishing and Maintaining NED HCVs. To expedite the process of identifying NED HCVs to ensure that the minimum number (or baseline) of targeted families are assisted, HUD determined that PHAs may code the vouchers of current participants that meet the definition of a NED family in PIC. PHAs were given until June 14, 2012, to reestablish their baseline number of NED vouchers. The Department is continuing to work closely with PHAs that have not met this requirement. The family must meet the definition of a non-elderly disabled family as of the day it is coded NED pursuant to this notice (also see section 5.j.). However, under no circumstances may a PHA designate a NED HCV awarded to the PHA in 2008 or later to an existing family if that voucher was never initially leased by a NED family from the waiting list. See sections 5.g. and 5.h. of this notice on tracking these NED HCVs.

PHAs are expected to maintain a NED voucher leasing rate of 95 to 100 percent. The Department will monitor PHAs' leasing rates through the PIC system to ensure that PHAs have reestablished their NED baseline in accordance with the requirements of this notice and/or leased the additional required units. This monitoring will also ensure that, upon turnover, NED vouchers are being reissued to other NED families. Sanctions, such as the withholding of administrative fees, may be imposed for PHAs that fail to meet and maintain the NED voucher leasing rate noted above. MTW agencies are not exempt from these requirements.

If a PHA does not have the funding available to reissue a NED voucher upon turnover, please see Section 5.f. for actions the PHA must take in these circumstances.

c. Leasing of New Increments. All new increments of HCV NED vouchers must be initially leased by the target population stated in the NOFA. For instance, HCVs awarded for Designated Housing in 2009 must first be issued to the identified public housing families that would have been housed had it not been for the designation unless the families cannot be located or are already receiving rental assistance. In such cases, any remaining vouchers would be issued to NED families on the PHA's HCV waiting list. The same provisions apply to Certain Developments.

Category 2 HCVs awarded in 2011 under *HUD's Fiscal Year 2009 Rental Assistance for Non-Elderly Persons with Disabilities* must be leased by NED persons transitioning from nursing homes and other healthcare institutions into the community. If the initial issuance of a Category 2 voucher does not result in a lease-up, the PHA must re-issue the HCV to another Category 2 family. For each Category 2 family, there must be documentation (e.g., a copy of a referral letter

from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

d. Reissuance of Turnover Vouchers. All NED turnover HCVs must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 HCV must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA re-issue the HCV to a NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA would be under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 HCVs, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD will closely monitor the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

e. Waiting List Maintenance. Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served in accordance with the PHA's administrative plan policies. Therefore, the PHA cannot skip over a NED family just because it is currently serving the required number of NED families as explained in section 3a. For example, if the PHA has leased 100 percent of its NED vouchers, but is ready to issue five regular vouchers, and the next five families on the PHA's waiting list are non-elderly disabled families, the regular vouchers would be issued to the next five families on the waiting list, which in this case would be five non-elderly disabled families. However, note that this action does not increase the NED baseline for the PHA, which is solely determined by the number of special purpose vouchers targeted specifically for NED families that were allocated to the PHA. In addition, those five families would not be coded NED in PIC.

f. Funding Shortfalls. PHAs that experience funding shortfalls in a given calendar year generally stop issuing vouchers and some may recall vouchers from families that are searching for units. If the PHA is not assisting the required number of special purpose vouchers (NED, MS5, HUD-VASH and FUP families), when it resumes issuing vouchers, it must issue vouchers first to these special purpose voucher categories of families on its waiting list until the PHA is assisting its required number of special purpose vouchers. A PHA must establish policies in its administrative

plan regarding selection of special purpose voucher families once the PHA resumes issuing vouchers after a funding shortfall. Should the PHA have to terminate families from its HCV program due to a funding shortfall, NED, MS5, HUD-VASH and FUP families that comprise the required number of families served must be last to be terminated. An administrative policy must also address terminating special purpose voucher families should termination be necessary.

g. PIC Reporting. All NED families, except as noted below, will be coded on line 2n of the Family Report (form HUD-50058) and on line 2p of the MTW Family Report as NED. Category 2 families (those transitioning from nursing homes and other health care institutions into the community) awarded under the NOFA for *HUD's Fiscal Year 2009 Rental Assistance for Non-Elderly Persons with Disabilities* will be coded as NHT in accordance with the instructions in section VI.C. of the aforementioned NOFA. There will be no further reporting of any other codes for NED families in PIC (MS1, PHDES, MFDES, and PA). In cases of portability, the initial PHA must include NED or NHT, as applicable, on the Family Report sent to the receiving PHA. Receiving PHAs must maintain the NED or NHT code on their Family Reports for the duration of the family's participation in the HCV program if the receiving PHA is billing the initial PHA. Once NED codes are reestablished in accordance with Section 5.b. of this notice, NED families that are being served with regular vouchers (those not awarded specifically under a NOFA for NED families) must **not** be coded as such on the Family Report or MTW Family Report. The PHA should not code more families than the number of vouchers awarded for NEDs that are recorded on the aforementioned website. All MS5 families will continue to be coded as such on the applicable lines of the Family Report.

h. VMS Reporting. All PHAs, with the exception of MTW agencies, must report all NED families (which include those previously reported under the One-Year Mainstream (MS1) category as well as Category 2 families described above) under the NED column. Until the VMS form is updated, please ignore the years 2008 and 2009 that appear in the NED column. As provided in Notice PIH 2011-32, the number of vouchers reported in the NED column is not limited to those funded with 2008 and 2009 appropriations.

MTW agencies will continue to report under the NED category only the leasing of those NED vouchers awarded from fiscal years 2008 and 2009 funds. Be advised that some NED vouchers funded from 2009 funds were actually awarded after that year, but they are still awards from 2009 funds and must be reported as NED vouchers. The leasing of all prior NED vouchers by MTW agencies will be reported under the MS1 category.

As with PIC reporting, do not report more NED families than the established baseline of NED vouchers. NED vouchers that have been ported and are being billed to the initial PHA must be reported under the appropriate special purpose voucher category

(i.e. NED). NED and other special purpose vouchers must be reported in their special purpose voucher field rather than under the Port Vouchers Paid category. Therefore, if the PHA has NED vouchers that fall under both the NED and Port Vouchers Paid categories it must report them under the NED column. Then, the PHA must use the NED comments field to specify the actual number of NED units and the amount of HAP that would otherwise have been applied to the Port Vouchers Paid category.

MS5 reporting requirements in VMS have not changed.

i. Renewal Funding. Regardless of HCV renewal funding in any calendar year, the PHA is always responsible for serving its baseline number of NED and MS5 vouchers. For example, a downward proration of HCV renewal funding does not reduce the PHA's baseline number of NED and MS5 vouchers.

j. "Aging Out" of NED. Existing NED participant families DO NOT "age out" of the NED program as long as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract or the date it was established as a NED family in PIC pursuant to this notice. By "aging out," this notice is referring to cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher.

6. MS5 Vouchers. Also, in accordance with the Frank Melville Supportive Housing Investment Act of 2010, upon turnover, MS5 vouchers must continue to be issued to families where the head, spouse or co-head is a person with disabilities. Please note that the qualifying family member does not have to be non-elderly as well. PHAs will be notified shortly of their baseline MS5 vouchers.

7. Reasonable Accommodations and Related Issues. A family may always request a reasonable accommodation to permit program participation by individuals with disabilities.

a. Exception Payment Standards. On a case-by-case basis, as a reasonable accommodation, a PHA may approve a payment standard amount up to 110 percent of the published fair market rent (FMR) if its payment standards are set below 110 percent of the FMR. Higher payment standards must be requested by the family and subsequently approved, as necessary, by the PHA after a family with a member who is a person with disabilities or an individual person with disabilities locates a unit. The HUD Field Office Public Housing Director can approve exception payment standards above 110 percent to 120 percent of the FMR. HUD Headquarters must waive 24 CFR § 982.505(d) to allow the PHA to approve any exception payment standards higher than 120 percent of the FMR. Please reference Notice PIH 2011-19, Extension of Notice 2010-11, Requests for Exception Payment standards for Persons with Disabilities as a Reasonable Accommodation.

b. Exceptions to Subsidy Standards. A family's composition or circumstances may warrant the provision of an additional bedroom to permit disability related overnight care and allow the family equal use and enjoyment of the unit. Such limited exceptions to the established subsidy standards are permitted under 24 CFR § 982.402(b)(8). The PHA must consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation. Please reference Notice PIH-2012-33, *Extension of PIH Notice 2010-51, Oversubsidization in the Housing Choice Voucher Program*.

c. Voucher Term. PHAs are encouraged to be generous in establishing reasonable initial search terms and subsequent extensions for families with a member who is a person with disabilities. Sixty days is the minimum voucher term. However, there is no maximum term established by program regulations. A PHA may approve a longer term in accordance with its administrative plan. In setting its policy concerning the length of the voucher term, a PHA may wish to contact agencies that work with families with a member who is a person with disabilities for advice on reasonable search terms. While HUD encourages search terms that maximize the family's opportunity to find suitable housing, the term may not be indefinite.

d. Referral Services. In addition to providing families with a member who is a person with disabilities a list of accessible units known to the PHA, PHAs are encouraged to provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the information packet given to voucher applicants at the briefing session. These organizations include state protection and advocacy agencies, Centers for Independent Living, State Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

e. Housing Search Assistance. PHAs are encouraged to offer specialized housing search assistance to families with a member who is a person with disabilities to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

f. Cooperative Efforts With Other Governmental Agencies. In conjunction with the PHA Plan process, PHAs are encouraged to work with other local governmental agencies serving persons with disabilities in setting policies and sharing resources. PHAs may provide a preference or a set-aside (limiting the number of families on a waiting list eligible for certain preferences) for admission of families with a member who is a person with disabilities. However, a PHA may not provide a preference or set aside for persons with a specific disability. Preferences that target individuals with specific disabilities or diagnoses may only be authorized in connection with remedial actions undertaken pursuant to Department of Justice enforcement, *Olmstead*-related settlements or litigation, and state and local governments' voluntary, documented affirmative *Olmstead* planning and implementation efforts and must be reviewed and approved by

HUD's Office of General Counsel's Office of Fair Housing. See PIH Notice 2012-31 and the Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead.

Other governmental or non-governmental agencies may provide available resources for such assistance as housing search counseling, moving expenses, security deposits and utility deposits.

State Medicaid agencies and their local offices administer the Federal Medicaid Program, which is funded by the U.S. Department of Health and Human Services (HHS). Medicaid is an important resource to assist PHAs in meeting the challenge of providing community-based services to individuals with disabilities.

g. Special Housing Types. Although PHAs may approve the use of special housing types for their general waiting list population, the PHA **must** permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Such special housing types include: single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space. To determine if the homeownership option should be offered as a reasonable accommodation, please reference 24 CFR § 982.625(d)(1) and (2). In shared housing, the regulations prohibit the assisted person from being a relative by blood or marriage to a resident owner. However, a PHA must grant exceptions in program policies where such exceptions are needed as a reasonable accommodation for a person with a disability. Reasonable accommodations are made on a case-by-case basis. Granting this type of reasonable accommodation request would require PHAs to follow HUD rules for seeking approval to waive a program regulation.

h. Earned Income Disallowance. When re-determining the annual income of a participant family that includes persons with disabilities under the HCV program, the re-determination must exclude an increase in annual income due to earnings in accordance with 24 CFR § 5.617. HUD believes that the exclusion of an increase in annual income due to earnings will help persons with disabilities obtain and retain employment, which is an important step toward economic self-sufficiency.

8. Information Contact. Inquiries about this notice should be directed to Phyllis Smelkinson, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 402-4138 or Phyllis.Smelkinson@hud.gov.

9. Paperwork Reduction Act. The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C 3520). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The

